

## COUNTIES APPENDIX

The appendix to Counties provides pages from the historical record of the US Congress, and a few excerpts from texts by independent authors.

All the materials are online.

The historical record of the US Congress is at:[www.loc.gov](http://www.loc.gov)

Click on the following, in succession:

- (1) American Memory
- (2) government, law
- (3) U.S. Congress ~ Documents ~ 1774-1875

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JOURNALS OF THE  
CONTINENTAL CONGRESS  
1774-1789

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Volume XXVIII. 1785  
January 11-June 30

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Journals of the Continental Congress Volume 28

1785 May 20

Disposition of Land in the Northwest Territory

'There shall be reserved for the United States out of every township, the four lots, being numbered 8, 11, 26, 29, and out of every fractional part of a township, so many lots of the same numbers as shall be found thereon, for future sale. There shall be reserved the lot N 16, of every township, for the maintenance of public schools, within the said township; also one third part of all gold, silver, lead and copper mines, to be sold, or otherwise disposed of as Congress shall hereafter direct.'

'The United States of America to all to whom these presents shall come, greeting:

'Know ye, That for the consideration of [blank] dollars we have granted, and hereby do grant and confirm unto [blank] the township, (or fractional part of a township, as the case may be) numbered [blank] in the range [blank] excepting therefrom, and reserving one third part of all gold, silver, lead and copper mines within the same; and the lots Ns 8, 11, 26, and 29, for future sale or disposition, and the lot N 16, for the maintenance of public schools.'

36	30	24	18	12	6
35	29	23	17	11	5
34	28	22	16	10	4
33	27	21	15	9	3
32	26	20	14	8	2
31	25	19	13	7	1

Statute 24, Fourth Congress, 1st Session

1796 May 18.

Sale of Lands of US NW of Ohio River & above mouth of Kentucky River.

Section 3. Be it further enacted, That a salt spring lying upon a creek which empties into the Sciota river and every other salt spring which may be discovered, together with the section of one mile square which includes it, and also four sections at the center of every township, containing each one mile square, shall be reserved, for the future disposal of the United States, but there shall be no reservations, except for salt springs, in fractional townships, where the fraction is less than three fourths of a township.

(The 1796 Land Act revises some but not all parts of the 1785 Land Act. It carries all provisions of the 1785 Land Act forward, with revisions. It isn't a new act by a new government. The US Congress didn't eliminate its obligations under prior acts when it reconstituted under the 1789 Constitution. The 1796 Act refers vaguely to sections 8, 11, 26 and 29 as four sections at the center of every township reserved to the US for future disposal. The 1796 Act omits mention of section 16, but has never been interpreted to eliminate a 5th section reserved to township inhabitants to support their schools. The 1796 Act omits a template of bills of sale provided in the 1785 Act; and government officials carried them forward and used them nonetheless.)

<b>6</b>	<b>5</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>
<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>
<b>18</b>	<b>17</b>	<b>16</b>	<b>15</b>	<b>14</b>	<b>13</b>
<b>19</b>	<b>20</b>	<b>21</b>	<b>22</b>	<b>23</b>	<b>24</b>
<b>30</b>	<b>29</b>	<b>28</b>	<b>27</b>	<b>26</b>	<b>25</b>
<b>31</b>	<b>32</b>	<b>33</b>	<b>34</b>	<b>35</b>	<b>36</b>

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CONTINENTAL CONGRESS

1774-1789

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Volume XXXII. 1787

January 17-July 20

UNITED STATES  
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WASHINGTON  
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Journals of the Continental Congress, volume 32

1787 July 10.

(Contract for sale of large tract in Ohio)

The Committee (Carrington, King, Dane, Madison, Benson) to whom was referred the Memorial of Samuel H. Parsons .. report ..Resolved that the Treasury Board be authorised and empowered to contract with Samuel Holden Parsons .. or any other Agent or Agents, duly authorised, by the Company stiled and known by the name of the Association for the purchase of Lands on the N. West side of Ohio River, for a grant of a Tract which shall be bounded by the Ohio [from the mouth of Sioto to the intersection of the Western Boundary of the (7th) Range of Townships now surveying thence by the said boundary to the Northern boundary of the township, thence by a due West line to Sioto, thence by the Sioto to the beginning,] upon the following terms ..The Tract to be surveyed and its contents ascertained by the Geographer, or some other proper Officer .. and shall render one complete plat ..The company, within -- years .. to lay off the whole Tract at their own expence, into Townships .. and to divide the same into lots according to the (1785 Land Act) ..

The lot No. 16 in each Township to be given perpetually for the purposes contained in the said Ordinance."

The lot No. 29 in each Township to be given perpetually for the purposes of Religion.The lots No. 8, 11, and 26 in each Township to be reserved for the future disposition of Congress.Four complete Townships to be given perpetually for the purposes of an University, be laid off by the Company, as near the centre as may be, so that the same shall be of good land, to be applied to the intended object by the Legislature of the State.The stipulated price to be (\$1) per Acre for all the Land contained in the Tract, excepting the reservations and gifts aforesaid, payable in specie, loan Office certificates .. or certificates of liquidated debts of the US .... liable to a reduction by an allowance for bad land, expences of surveying and all incidental charges and circumstances whatever .... provided that such allowance shall not exceed in the whole (\$0.33) per Acre .... (\$ --) to be paid down upon the closing of the Contract, and the remainder upon the completion of the work to be performed by the Geographer or other Office, on the part of the US."

TUESDAY, JULY 10, 1787.

Congress assembled present as before.

[Report of Committee on memorial of S. H. Parsons <sup>1</sup>]

The Committee consisting of [Mr. Edward Carrington, Mr. Rufus King, Mr. Nathan Dane, Mr. James Madison and Mr. Egbert Benson] to whom was referred the Memorial of Samuel H Parsons Esq<sup>r</sup>, report as follows,

*Resolved*, that the Treasury Board be authorised and empowered to contract with Samuel Holden Parsons Esq<sup>r</sup> or any other Agent or Agents, duly authorised, by the Company stiled and known by the name of the Association for the purchase of Lands on the N. West side of Ohio River, for a grant of a Tract which shall be bounded by the Ohio, Muskingum and Scioto Rivers, and a due east and West line intersecting a line at a distance not less than 70 Miles from its beginning, to be extended due North from the middle of one to be drawn from the mouth of Muskingum, to the mouth of Scioto, [from the mouth of Sioto to the intersection of the Western Boundary of the seventh Range of Townships now surveying thence by the said

Also according to the *Committee Book*, the following were referred:

Letter of Secretary at War, July 6, 1787, regarding Indian expences, together with an account of Alexander Droomgoole, was referred to the Board of Treasury to report. Report rendered July 18, 1787.

The papers, enclosed in the above letter of July 6, 1787, of the Secretary at War, touching Indian affairs, were referred to the Secretary at War to report. Report rendered July 11, 1787. According to the *Despatch Book, Papers of the Continental Congress*, No. 185, IV, p. 14, the papers inclosed in the latter of July 6 comprised the following copies: Letter of James White to Secretary at War, May 24, 1787, on his negotiations with the Creeks; proceedings of the Lower Creeks, April 10; resolves of the Assembly of Georgia; letter of the Governor of Georgia to James White; White to Mr. McGillivray, April 4; reply of McGillivray; talk of James White to the Lower Creeks; talk from the Choctaws to Congress, November 22, 1786; answer of Secretary at War, June 27, 1787; talk from the Chickasaws; answer of the Secretary at War, June 27, 1787; Secretary at War to James White; message from Cherokees touching encroachments on their lands; reply of the Secretary at War; Alexander Droomgoole's account of expences; and letter of Secretary at War to J. White, June 22, 1787.

<sup>1</sup> *Papers of the Continental Congress*, No. 19, V, pp. 27-29, in the writing of Mr. Edward Carrington. Printed copies of this report are in *Papers of the Continental Congress*, Broad-sides. Read July 10, and made order for the day for July 11, 1787. See May 9, July 14, 17, and 23, 1787.

boundary to the Northern boundary of the Township, thence by a due West line to Sioto, thence by the Sioto to the beginning, ] upon the following terms; Viz

The Tract to be surveyed and its contents ascertained by the Geographer, or some other proper Officer of the United States, who shall plainly mark the said east and West line, and shall render one complete plat to the Treasury Board and another to the Company.

The Company, within            years from the completion of this work, to lay off the whole Tract, at their own expence, into Townships and fractional parts of Townships, and to divide the same into lots according to the Land Ordinance <sup>1</sup> of the 20<sup>th</sup> of May 1785, complete returns whereof shall be made to the Treasury Board.

The lot N<sup>o</sup> 16 in each Township to be given perpetually for the purposes contained in the said Ordinance.

The lot N<sup>o</sup> 29 in each Township to be given perpetually for the purposes of Religion.

The lots N<sup>o</sup> 8, 11, and 26 in each Township to be reserved for the future disposition of Congress.

Four complete Townships to be given perpetually for the purposes of an University, be laid off by the Company, as near the centre as may be, so that the same shall be of good land, to be applied to the intended object by the Legislature of the State.

The stipulated price to be one dollar per Acre for all the Land contained in the Tract, excepting the reservations and gifts aforesaid, payable in specie, loan Office certificates reduced to specie Value, or certificates of liquidated debts of the United States, liable to a reduction by an allowance for bad land, expences of surveying and all incidental charges and circumstances whatever, provided that such allowance shall not exceed in the whole one third of a dollar per Acre.

Such of the Company as may possess rights for bounties of Land to the late Army, to be permitted to render the same in discharge of the contract Acre for Acre, provided that the agregate of such rights, shall not exceed one seventh part of the Land to be paid for, and provided also that there shall be no future claim against the United States on account of the said rights.

dollars of the purchase Money to be paid down upon the closing of the Contract, and the remainder upon the completion of the work to be performed by the Geographer or other Officer, on the part of the United States.

<sup>1</sup> *Journals*, vol. XXVIII, pp. 375-381.



The Company to be at liberty for the term of three years from the closing of this Contract, to extend their purchase, from time to time, upon the same terms, within the Muskingum and Scioto, and lines extending due North from their sources as far as the Indian boundary established by the Treaty of 1785, provided that there shall never be left any interstice, and that the Northern boundary shall always be by a due East and West line until it shall reach the said Indian boundary. a line to be extended due North from the conflux of the branches of Sioto at a place called Town lick and the continuation of the boundary of the seventh Range of Townships as far as the Indian boundary established by the Treaty of 1785, provided that there shall never be left any interstice, and that the Northern boundary shall always be by a due East and West line until the several purchases shall reach the said Indian boundary.<sup>1</sup>

WEDNESDAY, JULY 11, 1787.

Congress assembled present the seven states above mentioned.

The Com<sup>o</sup> consisting of M<sup>r</sup> [Edward] Carrington M<sup>r</sup> [Nathan] Dane M<sup>r</sup> R[ichard] H[enry] Lee M<sup>r</sup> [John] Kean and M<sup>r</sup> [Melancton] Smith to whom was referred the report of a com<sup>o</sup> touch<sup>d</sup> the temporary government of the western territory reported an Ordinance for the government of the territory of the United States North West of the river Ohio, which was read a first time.

<sup>1</sup> JULY 10, 1787. According to the *Committee Book, Papers of the Continental Congress*, No. 190, p. 151, the following committee was appointed:

Mr. Abraham Clark, Mr. William Pierce, Mr. Nathan Dane, Mr. William Few and Mr. John Kean on a motion of Mr. Pierce respecting the requisition for 1787 and the estimate of the Board of Treasury for that year. This was a renewal of the committee of May 3, 1787. Report rendered July 14, 1787. See April 2, 1787.

THE  
DEBATES  
IN THE SEVERAL  
STATE CONVENTIONS,  
ON THE ADOPTION OF THE  
FEDERAL CONSTITUTION,  
AS RECOMMENDED BY THE  
GENERAL CONVENTION AT PHILADELPHIA,  
IN  
1787.

TOGETHER WITH THE  
JOURNAL OF THE FEDERAL CONVENTION,  
LUTHER MARTIN'S LETTER,  
YATES'S MINUTES,  
CONGRESSIONAL OPINIONS,  
VIRGINIA AND KENTUCKY RESOLUTIONS OF '98-'99,  
AND  
OTHER ILLUSTRATIONS OF THE CONSTITUTION.

IN FOUR VOLUMES.

VOL. I.

SECOND EDITION, WITH CONSIDERABLE ADDITIONS.

COLLECTED AND REVISED FROM CONTEMPORARY PUBLICATIONS,  
BY JONATHAN ELLIOT.

PUBLISHED UNDER THE SANCTION OF CONGRESS.

WASHINGTON:  
PRINTED FOR THE EDITOR.

1836.



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states; that they are absolved from all allegiance to the British crown, and that all political connection between them and the state of Great Britain is, and ought to be, totally dissolved; and that, as free and independent states, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent states may of right do. And for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor.

## JOHN HANCOCK.

NEW HAMPSHIRE.	NEW JERSEY.	VIRGINIA.
Josiah Bartlett, William Whipple, Matthew Thornton.	Richard Stockton, John Witherspoon, Francis Hopkinson, John Hart, Abraham Clark.	George Wythe, Richard Henry Lee, Thomas Jefferson, Benjamin Harrison, Thomas Nelson, Jr., Francis Lightfoot Lee, Carter Braxton.
MASSACHUSETTS BAY.	PENNSYLVANIA.	NORTH CAROLINA.
Samuel Adams, John Adams, Robert Treat Paine, Elbridge Gerry.	Robert Morris, Benjamin Rush, Benjamin Franklin, John Morton, George Clymer, James Smith, George Taylor, James Wilson, George Ross.	William Hooper, Joseph Hewes, John Penn.
RHODE ISLAND, &c.	DELAWARE.	SOUTH CAROLINA.
Stephen Hopkins, William Ellery.	Cesar Rodney, George Read, Thomas M'Kean.	Edward Rutledge, Thomas Heyward, Jr., Thomas Lynch, Jr., Arthur Middleton.
CONNECTICUT.	MARYLAND.	GEORGIA.
Roger Sherman, Samuel Huntington, William Williams, Oliver Wolcott.	Samuel Chase, William Paca, Thomas Stone, C. Carroll, of Carrollton.	Batton Gwinnett, Lyman Hall, George Walton.
NEW YORK.		
William Floyd, Philip Livingston, Francis Lewis, Lewis Morris.		

## POLITICAL RIGHTS AND SOVEREIGNTY.

Respecting the political rights and sovereignty of the several colonies, and of the union which was thus spontaneously formed by the people of the United Colonies, by the declaration of independence, Judge Story, in his Commentaries on the Constitution, remarks:—

In the first place, antecedent to the declaration of independence, none of the colonies were, or pretended to be, sovereign states, in the sense in which the term "sovereign" is sometimes applied to the states. The term "sovereign," or "sovereignty," is used in different senses, which often leads to a confusion of ideas, and sometimes to very mischievous and unfounded conclusions. By "sovereignty," in its largest sense, is meant supreme, absolute, uncontrollable power, the *jus summi imperii*, the absolute right to govern. A state or nation is a body politic, or society of men, united together for the purpose of promoting their mutual safety and advantage by their combined strength. By the very act of

civil and political association, each citizen subjects himself to the authority of the whole; and the authority of all over each member essentially belongs to the body politic. A state which possesses this absolute power, without any dependence upon any foreign power or state, is in the largest sense a sovereign state. And it is wholly immaterial what is the form of the government, or by whose hands this absolute authority is exercised. It may be exercised by the people at large, as in a pure democracy; or by a select few, as in an absolute aristocracy; or by a single person, as in an absolute monarchy. But "sovereignty" is often used, in a far more limited sense than that of which we have spoken, to designate such political powers as, in the actual organization of the particular state or nation, are to be exclusively exercised by certain public functionaries, without the control of any superior authority. It is in this sense that Blackstone employs it, when he says that it is of "the very essence of a law, that it is made by the supreme power. Sovereignty and legislature are, indeed, convertible terms; one cannot subsist without the other." Now, in every limited government, the power of legislation is, or at least may be, limited at the will of the nation; and therefore the legislature is not in an absolute sense sovereign. It is in the same sense that Blackstone says, "the law ascribes to the king of England the attribute of sovereignty or preëminence," because, in respect to the powers confided to him, he is dependent on no man, and accountable to no man, and subjected to no superior jurisdiction. Yet the king of England cannot make a law; and his acts, beyond the powers assigned to him by the constitution, are utterly void.

In like manner, the word "state" is used in various senses. In its most enlarged sense, it means the people composing a particular nation or community. In this sense, the "state" means the whole people, united into one body politic; and the state, and the people of the state, are equivalent expressions. Mr. Justice Wilson, in his Law Lectures, uses the word "state" in its broadest sense. "In free states," says he, "the people form an artificial person, or body politic, the highest and noblest that can be known. They form that moral person, which, in one of my former lectures, I described as a complete body of free, natural persons, united together for their common benefit; as having an understanding and a will; as deliberating, and resolving, and acting; as possessed of interests which it ought to manage; as enjoying rights which it ought to maintain; and as lying under obligations which it ought to perform. To this moral person we assign, by way of eminence, the dignified appellation of STATE." But there is a more limited sense, in which the word is often used, where it expresses merely the positive or actual organization of legislative, executive, or judicial powers. Thus the actual government of a state is frequently designated by the name of *the state*. We say, the state has power to do this or that; the state has passed a law, or prohibited an act; meaning no more than that the proper functionaries, organized for that purpose, have power to do the act, or have passed the law, or prohibited the particular action. The sovereignty of a nation or state, considered with reference to its association, as a body politic, may be absolute and uncontrollable in all respects, except the limitations which it chooses to impose upon itself. But the sovereignty of the government, organized within the state, may be of a very limited nature. It may extend to a few, or to many objects. It may be unlimited, as to some; it may be restrained, as to others. To the extent of the power given, the government may be sover-

eign, and its acts may be deemed the sovereign acts of the state. Nay, the state, by which we mean the people composing the state, may divide its sovereign powers among various functionaries, and each, in the limited sense, would be sovereign in respect to the powers confided to each, and dependent in all other cases. Strictly speaking, in our republican forms of government, the absolute sovereignty of the nation is in the people of the nation; and the residuary sovereignty of each state, not granted to any of its public functionaries, is in the people of the state.\*

There is another mode in which we speak of a state as sovereign, and that is in reference to foreign states. Whatever may be the internal organization of the government of any state, if it has the sole power of governing itself, and is not dependent upon any foreign state, it is called a *sovereign state*; that is, it is a state having the same rights, privileges, and powers, as other independent states. It is in this sense that the term is generally used in treaties and discussions on the law of nations.

Now, it is apparent that none of the colonies, before the revolution, were, in the most large and general sense, independent or sovereign communities. They were all originally settled under, and subjected to, the British crown. Their powers and authorities were derived from, and limited by, their respective charters. All, or nearly all, of these charters controlled their legislation by prohibiting them from making laws repugnant, or contrary, to those of England. The crown, in many of them, possessed a negative upon their legislation, as well as the exclusive appointment of their superior officers, and a right of revision, by way of appeal, of the judgments of their courts. In their most solemn declarations of rights, they admitted themselves bound, as British subjects, to allegiance to the British crown; and, as such, they claimed to be entitled to all the rights, liberties, and immunities, of free-born British subjects. They denied all power of taxation, except by their own colonial legislatures; but at the same time they admitted themselves bound by acts of the British Parliament for the regulation of external commerce, so as to secure the commercial advantages of the whole empire to the mother country, and the commercial benefits of its respective members. So far as respects foreign states, the colonies were not, in the sense of the law of nations, sovereign states, but mere dependencies of Great Britain. They could make no treaty, declare no war, send no ambassadors, regulate no intercourse or commerce, nor, in any other shape, act as sovereigns, in the negotiations usual between independent states. In respect to each other, they stood in the common relation of British subjects; the legislation of neither could be controlled by any other; but there was a common subjection to the British crown. If in any sense they might claim the attributes of sovereignty, it was only in that subordinate sense to which we have alluded, as exercising within a limited extent certain usual powers of sovereignty. They did not even affect to claim a local allegiance.

In the next place, the colonies did not severally act for themselves, and proclaim their own independence. It is true that some of the states had

\* Mr. Madison, in his elaborate report in the Virginia legislature, in January, 1800, adverts to the different senses in which the word "state" is used. He says, "It is indeed true that the term 'states' is sometimes used in a vague sense, and sometimes in different senses, according to the subject to which it is applied. Thus it sometimes means the separate sections of territory occupied by the political societies within each; sometimes the particular governments established by those societies; sometimes those societies, as organized into those particular governments; and lastly, it means the people composing those political societies, in their highest sovereign capacity."



previously formed incipient governments for themselves; but it was done in compliance with the recommendations of Congress. Virginia, on the 29th of June, 1776, by a convention of delegates, declared "the government of this country, as formerly exercised under the crown of Great Britain, totally dissolved," and proceeded to form a new constitution of government. New Hampshire also formed a government, in December, 1775, which was manifestly intended to be temporary, "during (as they said) the unhappy and unnatural contest with Great Britain." New Jersey, too, established a frame of government, on the 2d of July, 1776; but it was expressly declared that it should be void upon a reconciliation with Great Britain. And South Carolina, in March, 1776, adopted a constitution of government; but this was, in like manner, "established until an accommodation between Great Britain and America could be obtained." But the declaration of the independence of all the colonies was the united act of all. It was "a declaration by the representatives of the United States of America in Congress assembled;" "by the delegates appointed by the good people of the colonies," as in a prior declaration of rights they were called. It was not an act done by the state governments then organized; nor by persons chosen by them. It was emphatically the act of the whole *people* of the United Colonies, by the instrumentality of their representatives, chosen for that among other purposes. It was an act not competent to the state governments, or any of them, as organized under their charters, to adopt. Those charters neither contemplated the case, nor provided for it. It was an act of original, inherent sovereignty by the people themselves, resulting from their right to change the form of government, and to institute a new government, whenever necessary for their safety and happiness. So the Declaration of Independence treats it. No state had presumed of itself to form a new government, or to provide for the exigencies of the times, without consulting Congress on the subject; and when they acted, it was in pursuance of the recommendation of Congress. It was, therefore, the achievement of the whole for the benefit of the whole. The people of the United Colonies made the United Colonies free and independent states, and absolved them from allegiance to the British crown. The Declaration of Independence has accordingly always been treated as an act of paramount and sovereign authority, complete and perfect *per se*, and *ipso facto* working an entire dissolution of all political connection with, and allegiance to, Great Britain; and this, not merely as a practical fact, but in a legal and constitutional view of the matter by courts of justice.

In the debates in the South Carolina legislature, in January, 1788, respecting the propriety of calling a convention of the people to ratify or reject the Constitution, a distinguished statesman used the following language: "This admirable manifesto (i. e. the Declaration of Independence) sufficiently refutes the doctrine of the individual sovereignty and independence of the several states. In that Declaration the several states are not even enumerated; but after reciting, in nervous language, and with convincing arguments, our right to independence, and the tyranny which compelled us to assert it, the Declaration is made in the following words: 'We, therefore, the representatives of the United States, &c., do, in the name, &c., of the good people of these colonies, solemnly publish, &c., that these United Colonies are, and of right ought to be, free and independent states.' The separate independence and individual sovereignty of the several states were never thought of by the enlightened band of

patriots who framed this Declaration. The several states are not even mentioned by name in any part, as if it was intended to impress the maxim on America, that our freedom and independence arose from our union, and that without it we could never be free or independent. Let us then consider all attempts to weaken this union, by maintaining that each state is separately and individually independent, as a species of political heresy, which can never benefit us, but may bring on us the most serious distresses."

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THE  
DEBATES  
IN THE SEVERAL  
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ON THE ADOPTION OF THE  
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VIRGINIA AND KENTUCKY RESOLUTIONS OF '98-'99,  
AND  
OTHER ILLUSTRATIONS OF THE CONSTITUTION.  
IN FOUR VOLUMES.  
VOL. III.

SECOND EDITION, WITH CONSIDERABLE ADDITIONS.

COLLECTED AND REVISED FROM CONTEMPORARY PUBLICATIONS,  
BY JONATHAN ELLIOT.

PUBLISHED UNDER THE SANCTION OF CONGRESS.

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WASHINGTON:  
PRINTED FOR THE EDITOR.  
1836.

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James Madison

TO THOMAS JEFFERSON.

[EXTRACT.]

NEW YORK, *March 19, 1787.*

DEAR SIR,—I have already made known to you the light in which the subject [the sacrifice of the Mississippi] was taken up by Virginia. Mr. Henry's disgust exceeds all measure, and I am not singular in ascribing his refusal to attend the convention to the policy of keeping himself free to combat or espouse the result of it according to the result of the Mississippi business, among other circumstances. North Carolina also has given pointed instructions to her delegates; so has New Jersey. A proposition for the like purpose was a few days ago made in the legislature of Pennsylvania, but went off without a decision on its merits. Her delegates in Congress are equally divided on the subject. The tendency of this project to foment distrust among the Atlantic States, at a crisis when harmony and confidence ought to have been studiously cherished, has not been more verified than its predicted effect on the ultramontane settlements.

TO EDMUND RANDOLPH.

[EXTRACT.]

NEW YORK, *April 8, 1787.*

DEAR SIR,—I am glad to find that you are turning your thoughts towards the business of May next. My despair of your finding the necessary leisure, as signified in one of your letters, with the probability that some leading propositions at least would be expected from Virginia, had engaged me in a closer attention to the subject than I should otherwise have given. I will just hint the ideas that have occurred, leaving explanations for our interview.

I think, with you, that it will be well to retain as much as possible of the old Confederation, though I doubt whether it may not be best to work the valuable articles into the new system, instead of engrafting the latter on the former. I am also perfectly of your opinion, that, in framing a system, no material sacrifices ought to be made to local or temporary prejudices. An explanatory address must of necessity accompany the result of the convention on the main object. I am not sure that it will be practicable to present the several parts of the reform in so detached a manner to the states, as that a partial adoption will be binding. Particular states may view different articles as conditions of each other, and would only ratify them as such. Others might ratify them as independent propositions. The consequence would be that the ratifications of both would go for nothing. I have not, however, examined this point thoroughly. In truth, my ideas of a reform strike so deeply at the old Confederation, and lead to such a systematic change, that they scarcely admit of the expedient.

I hold it for a fundamental point, that an individual independence of the states is utterly irreconcilable with the idea of an aggregate sovereignty. I think, at the same time, that a consolidation of the states into one simple republic is not less unattainable than it would be inexpedient. Let it be tried, then, whether any middle ground can be taken, which will at once support a due supremacy of the national authority, and leave in force the local authorities so far as they can be subordinately useful.

The first step to be taken is, I think, a change in the principle of representation. According to the present form of the Union, an equality of suffrage, if not just towards the larger members of it, is at least safe to them, as the liberty they exercise of rejecting or executing the acts of Congress is uncontrollable by the nominal sovereignty of Congress. Under a system which would operate without the intervention of the states, the case would be materially altered. A vote from Delaware would have the same effect as one from Massachusetts or Virginia.

Let the national government be armed with a positive and complete authority in all cases where uniform measures are necessary, as in trade, &c. &c. Let it also retain the powers which it now possesses.

Let it have a negative, in all cases whatsoever, on the legislative acts of the states, as the king of Great Britain heretofore had. This I conceive to be essential, and the least possible abridgment of the state sovereignties. Without such a defensive power, every positive power that can be given on paper will be unavailing. It will also give internal stability to the states. There has been no moment, since the peace, at which the federal assent would have been given to paper money, &c. &c.

Let this national supremacy be extended also to the judiciary department. If the judges in the last resort depend on the states, and are bound by their oaths to them and not to the Union, the intention of the law and the interests of the nation may be defeated by the obsequiousness of the tribunals to the policy or prejudices of the states. It seems at least essential that an appeal should lie to some national tribunals in all cases which concern foreigners, or inhabitants of other states. The admiralty jurisdiction may be fully submitted to the national government.

A government formed of such extensive powers ought to be well organized. The legislative department may be divided into two branches — one of them to be chosen every ——— years by the legislatures, or the people at large; the other to consist of a more select number, holding their appointments for a longer term, and going out in rotation. Perhaps the negative on the state laws may be most conveniently lodged in this branch. A council of revision may be superadded, including the great ministerial officers.

A national executive will also be necessary. I have scarcely ventured to form my own opinion yet, either of the manner in which it ought to be constituted, or of the authorities with which it ought to be clothed.

An article ought to be inserted expressly guaranteeing the tranquillity of the states against internal as well as external dangers.

To give the new system its proper energy, it will be desirable to have it ratified by the authority of the people, and not merely by that of the legislatures.

I am afraid you will think this project, if not extravagant, absolutely unattainable, and unworthy of being attempted. Conceiving it myself to go no farther than is essential, the objections drawn from this source are to be laid aside. I flatter myself, however, that they may be less formidable on trial than in contemplation. The change in the principle of representation will be relished by a majority of the states, and those too of most influence. The Northern States will be reconciled to it by the *actual* superiority of their populousness; the southern by their *expected* superiority on this point. This principle established, the repugnance of the large states to part with power will in a great degree subside, and the smaller states must ultimately yield to the predominant will. It is also already seen by many, and must by degrees be seen by all, that, unless the Union be organized efficiently on republican principles, innovations of a much more objectionable form may be obtruded, or, in the most favorable event, the partition of the empire into rival and hostile confederacies will ensue.

MONDAY, June 18.

*In Committee of the Whole*, on the propositions of Mr. Patterson and Mr. Randolph. On motion of Mr. DICKINSON, to postpone the first resolution in Mr. Patterson's plan, in order to take up the following, viz. : —

“That the Articles of Confederation ought to be revised and amended, so as to render the government of the United States adequate to the exigencies, the preservation, and the prosperity of the Union,” —

the postponement was agreed to by ten states ; Pennsylvania divided.

Mr. HAMILTON had been hitherto silent on the business before the Convention, partly from respect to others whose superior abilities, age, and experience, rendered him unwilling to bring forward ideas dissimilar to theirs ; and partly from his delicate situation with respect to his own state, to whose sentiments, as expressed by his colleagues, he could by no means accede. The crisis, however, which now



marked our affairs, was too serious to permit any scruples whatever to prevail over the duty imposed on every man to contribute his efforts for the public safety and happiness. He was obliged, therefore, to declare himself unfriendly to both plans. He was particularly opposed to that from New Jersey, being fully convinced that no amendment of the Confederation, leaving the states in possession of their sovereignty, could possibly answer the purpose. On the other hand, he confessed he was much discouraged, by the amazing extent of country, in expecting the desired blessings from any general sovereignty that could be substituted. As to the powers of the Convention, he thought the doubts started on that subject had arisen from distinctions and reasonings too subtle. A *federal* government he conceived to mean an association of independent communities into one. Different confederacies have different powers, and exercise them in different ways. In some instances, the powers are exercised over collective bodies; in others, over individuals, as in the German Diet, and among ourselves, in cases of piracy. Great latitude, therefore, must be given to the signification of the term. The plan last proposed departs, itself, from the *federal* idea, as understood by some, since it is to operate eventually on individuals. He agreed, moreover, with the honorable gentleman from Virginia, (Mr. Randolph,) that we owed it to our country to do, on this emergency, whatever we should deem essential to its happiness. The states sent us here to provide for the exigencies of the Union. To rely on and propose any plan not adequate to these exigencies, merely because it was not clearly within our powers, would be to sacrifice the means to the end. It may be said, that the *states* cannot *ratify* a plan not within the purview of the Article of the Confederation providing for alterations and amendments. But may not the states themselves, in which no constitutional authority equal to this purpose exists in the legislatures, have had in view a reference to the people at large? In the senate of New York, a proviso was moved, that no act of the Convention should be binding until it should be referred to the people and ratified; and the motion was lost by a single voice only, the reason assigned against it being, that it might possibly be found an inconvenient shackle.

The great question is, what provision shall we make for the happiness of our country? He would first make a comparative examination of the two plans, prove that there were essential defects in both, and point out such changes as might render a *national one* efficacious. The great and essential principles necessary for the support of government are — 1. An active and constant interest in supporting it. This principle does not exist in the states, in favor of the federal government. They have evidently in a high degree, the *esprit de corps*. They constantly pursue internal interests adverse to those of the whole. They have their particular debts, their particular plans of finance, &c. All these, when opposed to, invariably prevail over, the requisitions and plans of Congress. 2. The love of power.



Men love power. The same remarks are applicable to this principle. The states have constantly shown a disposition rather to regain the powers delegated by them, than to part with more, or to give effect to what they had parted with. The ambition of their demagogues is known to hate the control of the general government. It may be remarked, too, that the citizens have not that anxiety to prevent a dissolution of the general government as of the particular governments. A dissolution of the latter would be fatal; of the former, would still leave the purposes of government attainable to a considerable degree. Consider what such a state as Virginia will be in a few years—a few compared with the life of nations. How strongly will it feel its importance and self-sufficiency! 3. An habitual attachment of the people. The whole force of this tie is on the side of the state government. Its sovereignty is immediately before the eyes of the people; its protection is immediately enjoyed by them. From its hand distributive justice, and all those acts which familiarize and endear a government to a people, are dispensed to them. 4. *Force*, by which may be understood a *coercion of laws*, or *coercion of arms*. Congress have not the former, except in few cases. In particular states, this coercion is nearly sufficient; though he held it, in most cases, not entirely so. A certain portion of military force is absolutely necessary in large communities. Massachusetts is now feeling this necessity, and making provision for it. But how can this force be exerted on the states collectively? It is impossible. It amounts to a war between the parties. Foreign powers, also, will not be idle spectators. They will interpose; the confusion will increase; and a dissolution of the Union will ensue. 5. *Influence*,—he did not mean corruption, but a dispensation of those regular honors and emoluments which produce an attachment to the government. Almost all the weight of these is on the side of the states; and must continue so as long as the states continue to exist. All the passions, then, we see, of avarice, ambition, interest, which govern most individuals, and all public bodies, fall into the current of the states, and do not flow into the stream of the general government. The former, therefore, will generally be an overmatch for the general government, and render any confederacy in its very nature precarious. Theory is in this case fully confirmed by experience. The Amphictyonic Council had, it would seem, ample powers for general purposes. It had, in particular, the power of fining and using force against delinquent members. What was the consequence? Their decrees were mere signals of war. The Phocian war is a striking example of it. Philip, at length, taking advantage of their disunion, and insinuating himself into their councils, made himself master of their fortunes. The German confederacy affords another lesson. The authority of Charlemagne seemed to be as great as could be necessary. The great feudal chiefs, however, exercising their local sovereignties, soon felt the spirit, and found the means, of encroachments, which reduced the imperial authority to a nominal sovereignty. The Diet has

succeeded; which, though aided by a prince, at its head, of great authority independently of his imperial attributes, is a striking illustration of the weakness of confederated governments. Other examples instruct us in the same truth. The Swiss Cantons have scarce any union at all, and have been more than once at war with one another. How then are all these evils to be avoided? Only by such a complete sovereignty in the general government as will turn all the strong principles and passions above mentioned on its side. Does the scheme of New Jersey produce this effect? Does it afford any substantial remedy whatever? On the contrary, it labors under great defects, and the defect of some of its provisions will destroy the efficacy of others. It gives a direct revenue to Congress, but this will not be sufficient. The balance can only be supplied by requisitions; which experience proves cannot be relied on. If states are to deliberate on the mode, they will also deliberate on the object, of the supplies; and will grant or not grant, as they approve or disapprove of it. The delinquency of one will invite and countenance it in others. Quotas, too, must, in the nature of things, be so unequal, as to produce the same evil. To what standard will you resort? Land is a fallacious one. Compare Holland with Russia; France, or England, with other countries of Europe; Pennsylvania with North Carolina; — will the relative pecuniary abilities, in those instances, correspond with the relative value of land? Take numbers of inhabitants for the rule, and make like comparison of different countries, and you will find it to be equally unjust. The different degrees of industry and improvement in different countries render the first object a precarious measure of wealth. Much depends, too, on *situation*. Connecticut, New Jersey, and North Carolina, not being commercial states, and contributing to the wealth of the commercial ones, can never bear quotas assessed by the ordinary rules of proportion. They will, and must, fail in their duty. Their example will be followed, — and the union itself be dissolved. Whence, then, is the national revenue to be drawn? From commerce; even from exports, which, notwithstanding the common opinion, are fit objects of moderate taxation; from excise, &c. &c. — These, though not equal, are less unequal than quotas. Another destructive ingredient in the plan is that equality of suffrage which is so much desired by the small states. It is not in human nature that Virginia and the large states should consent to it; or, if they did, that they should long abide by it. It shocks too much all ideas of justice, and every human feeling. Bad principles in a government, though slow, are sure in their operation, and will gradually destroy it. A doubt has been raised whether Congress at present have a right to keep ships or troops in time of peace. He leans to the negative. Mr. Patterson's plan provides no remedy. If the powers proposed were adequate, the organization of Congress is such, that they could never be properly and effectually exercised. The members of Congress, being chosen by the states and subject to recall, represent all the local prejudices. Should the

powers be found effectual, they will from time to time be heaped on them, till a tyrannic sway shall be established. The general power, whatever be its form, if it preserves itself, must swallow up the state powers. Otherwise, it will be swallowed up by them. It is against all the principles of a good government, to vest the requisite powers in such a body as Congress. Two sovereignties cannot coëxist within the same limits. Giving powers to Congress must eventuate in a bad government, or in no government. The plan of New Jersey, therefore, will not do. What, then, is to be done? Here he was embarrassed. The extent of the country to be governed discouraged him. The expense of a general government was also formidable; unless there were such a diminution of expense, on the side of the state governments, as the case would admit. If they were extinguished, he was persuaded that great economy might be obtained by substituting a general government. He did not mean, however, to shock the public opinion by proposing such a measure. On the other hand, he saw no *other* necessity for declining it. They are not necessary for any of the great purposes of commerce, revenue, or agriculture. Subordinate authorities, he was aware, would be necessary. There must be district tribunals; corporations for local purposes. But *cui bono* the vast and expensive apparatus now appertaining to the states? The only difficulty of a serious nature which occurred to him, was that of drawing representatives from the extremes to the centre of the community. What inducements can be offered that will suffice? The moderate wages for the first branch could only be a bait to little demagogues. Three dollars, or thereabouts, he supposed, would be the utmost. The Senate, he feared, from a similar cause, would be filled by certain undertakers, who wish for particular offices under the government.

This view of the subject almost led him to despair that a republican government could be established over so great an extent. He was sensible, at the same time, that it would be unwise to propose *one* of any other form. In his private opinion, he had no scruple in declaring, supported as he was by the opinion of so many of the wise and good, that the British government was the best in the world; and that he doubted much whether any thing short of it would do in America. He hoped gentlemen of different opinions would bear with him in this, and begged them to recollect the change of opinion on this subject which had taken place, and was still going on. It was once thought, that the power of Congress was amply sufficient to secure the end of their institution. The error was now seen by every one. The members most tenacious of republicanism, he observed, were as loud as any in declaiming against the vices of democracy. This progress of the public mind led him to anticipate the time, when others as well as himself would join in the praise bestowed by Mr. Neckar on the British constitution — namely, that it is the only government in the world “which unites public strength with individual *security*.” In every community where industry is encouraged, there



will be a division of it into the few and the many. Hence, separate interests will arise. There will be debtors and creditors, &c. Give all power to the many, they will oppress the few. Give all power to the few, they will oppress the many. Both, therefore, ought to have the power, that each may defend itself against the other. To the want of this check, we owe our paper money, instalment laws, &c. To the proper adjustment of it, the British owe the excellence of their constitution. Their House of Lords is a most noble institution. Having nothing to hope for by a change, and a sufficient interest, by means of their property, in being faithful to the national interest, they form a permanent barrier against every pernicious innovation, whether attempted on the part of the crown or of the commons. No temporary Senate will have firmness enough to answer the purpose. The senate of Maryland, which seems to be so much appealed to, has not yet been sufficiently tried. Had the people been unanimous and eager in the late appeal to them on the subject of a paper emission, they would have yielded to the torrent. Their acquiescing in such an appeal is a proof of it. Gentlemen differ in their opinions concerning the necessary checks, from the different estimates they form of the human passions. They suppose seven years a sufficient period to give the Senate an adequate firmness, from not duly considering the amazing violence and turbulence of the democratic spirit. When a great object of government is pursued, which seizes the popular passions, they spread like wild-fire and become irresistible. He appealed to the gentlemen from the New England States, whether experience had not there verified the remark. As to the executive, it seemed to be admitted that no good one could be established on republican principles. Was not this giving up the merits of the question; for can there be a good government without a good executive? The English model was the only good one on this subject. The hereditary interest of the king was so interwoven with that of the nation, and his personal emolument so great, that he was placed above the danger of being corrupted from abroad; and at the same time was both sufficiently independent and sufficiently controlled, to answer the purpose of the institution at home. One of the weak sides of republics was their being liable to foreign influence and corruption. Men of little character, acquiring great power, become easily the tools of intermeddling neighbors. Sweden was a striking instance. The French and English had each their parties during the late revolution, which was effected by the predominant influence of the former. What is the inference from all these observations? That we ought to go as far, in order to attain stability and permanency, as republican principles will admit. Let one branch of the legislature hold their places for life, or at least during good behavior. Let the executive, also, be for life. He appealed to the feelings of the members present, whether a term of seven years would induce the sacrifices of private affairs which an acceptance of public trust would require, so as to insure the services of the best citizens. On this plan, we should have in the Senate

a permanent will, a weighty interest, which would answer essential purposes. But is this a republican government, it will be asked. Yes, if all the magistrates are appointed and vacancies are filled by the people, or a process of election originating with the people. He was sensible that an executive, constituted as he proposed, would have in fact but little of the power and independence that might be necessary. On the other plan, of appointing him for seven years, he thought the executive ought to have but little power. He would be ambitious, with the means of making creatures; and as the object of his ambition would be to *prolong* his power, it is probable that, in case of war, he would avail himself of the emergency, to evade or refuse a degradation from his place. An executive for life has not this motive for forgetting his fidelity, and will therefore be a safer depository of power. It will be objected, probably, that such an executive will be an *elective monarch*, and will give birth to the tumults which characterize that form of government. He would reply, that *monarch* is an indefinite term. It marks not either the degree or duration of power. If this executive magistrate would be a monarch for life, the other proposed by the report from the Committee of the Whole would be a monarch for seven years. The circumstance of being elective was also applicable to both. It had been observed, by judicious writers, that elective monarchies would be the best if they could be guarded against the *tumults* excited by the ambition and intrigues of competitors. He was not sure that tumults were an inseparable evil. He thought this character of elective monarchies had been taken rather from particular cases than from general principles. The election of Roman emperors was made by the *army*. In *Poland*, the election is made by great rival *princes*, with independent power, and ample means of raising commotions. In the German empire, the appointment is made by the electors and princes, who have equal motives and means for exciting cabals and parties. Might not such a mode of election be devised, among ourselves, as will defend the community against these effects in any dangerous degree? Having made these observations, he would read to the committee a sketch of a plan which he should prefer to either of those under consideration. He was aware that it went beyond the ideas of most members. But will such a plan be adopted out of doors? In return he would ask, will the people adopt the other plan? At present, they will adopt neither. But he sees the Union dissolving, or already dissolved—he sees evils operating in the states which must soon cure the people of their fondness for democracies—he sees that a great progress has been already made, and is still going on, in the public mind. He thinks, therefore, that the people will in time be unshackled from their prejudices; and whenever that happens, they will themselves not be satisfied at stopping where the plan of Mr. Randolph would place them, but be ready to go as far at least as he proposes. He did not mean to offer the paper he had sketched as a proposition to that committee. It was meant only to give a more correct view of his ideas, and to suggest the

amendments which he should probably propose to the plan of Mr. Randolph, in the proper stages of its future discussion. He reads his sketch in the words following: to wit,

"I. The supreme legislative power of the United States of America to be vested in two different bodies of men; the one to be called the assembly, the other the senate; who, together, shall form the legislature of the United States, with power to pass all laws whatsoever, subject to the negative hereafter mentioned.

"II. The assembly to consist of persons elected by the people, to serve for three years.

"III. The senate to consist of persons elected to serve during good behavior; their election to be made by electors chosen for that purpose by the people. In order to this, the states to be divided into election districts. On the death, removal, or resignation of any senator, his place to be filled out of the district from which he came.

"IV. The supreme executive authority of the United States to be vested in a governor, to be elected to serve during good behavior; the election to be made by electors chosen by the people in the election districts aforesaid. The authorities and functions of the executive to be as follows: to have a negative on all laws about to be passed, and the execution of all laws passed; to have the direction of war when authorized or begun; to have, with the advice and approbation of the senate, the power of making all treaties; to have the sole appointment of the heads or chief officers of the departments of finance, war, and foreign affairs; to have the nomination of all other officers, (ambassadors to foreign nations included,) subject to the approbation or rejection of the senate; to have the power of pardoning all offences except treason, which he shall not pardon without the approbation of the senate.

"V. On the death, resignation, or removal of the governor, his authorities to be exercised by the president of the senate till a successor be appointed.

"VI. The senate to have the sole power of declaring war; the power of advising and approving all treaties; the power of approving or rejecting all appointments of officers, except the heads or chiefs of the departments of finance, war, and foreign affairs.

"VII. The supreme judicial authority to be vested in judges, to hold their offices during good behavior, with adequate and permanent salaries. This court to have original jurisdiction in all causes of capture, and an appellate jurisdiction in all causes in which the revenues of the general government, or the citizens of foreign nations, are concerned.

"VIII. The legislature of the United States to have power to institute courts in each state for the determination of all matters of general concern.

"IX. The governor, senators, and all officers of the United States, to be liable to impeachment for mal and corrupt conduct; and, upon conviction, to be removed from office, and disqualified for holding any place of trust or profit; all impeachments to be tried by a court to consist of the chief —, or judge of the superior court of law of each state, provided such judge shall hold his place during good behavior and have a permanent salary.

"X. All laws of the particular states contrary to the constitution or laws of the United States to be utterly void; and, the better to prevent such laws being passed, the governor or president of each state shall be appointed by the general government, and shall have a negative upon the laws about to be passed in the state of which he is the governor or president.

"XI. No state to have any forces, land or naval; and the militia of all the states to be under the sole and exclusive direction of the United States, the officers of which to be appointed and commissioned by them."

On these several articles he entered into explanatory observations\* corresponding with the principles of his introductory reasoning.<sup>14</sup>

The committee rose, and the House adjourned.

\* The speech introducing the plan, as above taken down and written out, was seen by Mr. Hamilton, who approved its correctness, with one or two verbal changes, which were made as he suggested. The explanatory observations which did not im



TUESDAY, June 19.

*In Committee of the Whole*, on the propositions of Mr. Patterson. The substitute offered yesterday by Mr. Dickinson being rejected by a vote now taken on it, —

Connecticut, New York, New Jersey, Delaware, ay, 4; Massachusetts, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, no, 6; Maryland, divided.

Mr. Patterson's plan was again at large before the committee.

Mr. MADISON. Much stress has been laid by some gentlemen on the want of power in the Convention to propose any other than a *federal* plan. To what had been answered by others, he would only add, that neither of the characteristics attached to a *federal* plan would support this objection. One characteristic was, that, in a *federal* government, the power was exercised not on the people *individually*, but on the people *collectively*, on the *states*. Yet in some instances, as in piracies, captures, &c., the existing Confederacy, and in many instances the amendments to it proposed by Mr. Patterson, must operate immediately on individuals. The other characteristic was, that a *federal* government derived its appointments not immediately from the people, but from the states which they respectively composed. Here, too, were facts on the other side. In two of the states, Connecticut and Rhode Island, the delegates to Congress were chosen, not by the legislatures, but by the people at large; and the plan of Mr. Patterson intended no change in this particular.

It had been alleged, (by Mr. Patterson,) that the Confederation, having been formed by unanimous consent, could be dissolved by unanimous consent only. Does this doctrine result from the nature of compacts? Does it arise from any particular stipulation in the Articles of Confederation? If we consider the Federal Union as analagous to the fundamental compact by which individuals compose one society, and which must, in its theoretic origin at least, have been the unanimous act of the component members, it cannot be said that no dissolution of the compact can be effected without unanimous consent. A breach of the fundamental principles of the compact, by a part of the society, would certainly absolve the other part from their obligations to it. If the breach of *any* article, by *any* of the parties, does not set the others at liberty, it is because the contrary is *implied* in the compact itself, and particularly by that law of it which gives an indefinite authority to the majority to bind the whole, in all cases. This latter circumstance shows, that we are not to consider the Federal Union as analagous to the social compact of individuals: for, if it were so, a majority would have a right to bind

mediately follow were to have been furnished by Mr. H., who did not find leisure at the time to write them out, and they were not obtained. Judge Yates, in his notes, appears to have consolidated the explanatory with the introductory observations of Mr. Hamilton (under date of June 19th, a typographical error.) It was in the former, Mr. Madison observed, that Mr. Hamilton, in speaking of popular governments, however modified, made the remark attributed to him by Judge Yates, that they were "*but pork still, with a little change of sauce.*"

the rest, and even to form a new constitution for the whole; which the gentleman from New Jersey would be among the last to admit. If we consider the Federal Union as analogous, not to the social compacts among individual men, but to the conventions among individual states, what is the doctrine resulting from these conventions? Clearly, according to the expositors of the law of nations, that a breach of any one article, by any one party, leaves all the other parties at liberty to consider the whole convention as dissolved, unless they choose rather to compel the delinquent party to repair the breach. In some treaties, indeed, it is expressly stipulated, that a violation of particular articles shall not have this consequence, and even that particular articles shall remain in force during war, which is in general understood to dissolve all subsisting treaties. But are there any exceptions of this sort to the Articles of Confederation? So far from it, that there is not even an express stipulation that force shall be used to compel an offending member of the Union to discharge its duty. He observed, that the violations of the Federal Articles had been numerous and notorious. Among the most notorious was an act of New Jersey herself; by which she *expressly refused* to comply with a constitutional requisition of Congress, and yielded no further to the exhortations of their deputies, than barely to rescind her vote of refusal, without passing any positive act of compliance. He did not wish to draw any rigid inferences from these observations. He thought it proper, however, that the true nature of the existing Confederacy should be investigated, and he was not anxious to strengthen the foundations on which it now stands.

Proceeding to the consideration of Mr. Patterson's plan, he stated the object of a proper plan to be twofold — first, to preserve the Union; secondly, to provide a government that will remedy the evils felt by the states, both in their united and individual capacities. Examine Mr. Patterson's plan, and say whether it promises satisfaction in these respects.

1. Will it prevent the violations of the law of nations and of treaties, which, if not prevented, must involve us in the calamities of foreign wars? The tendency of the states to these violations has been manifested in sundry instances. The files of Congress contain complaints, already, from almost every nation with which treaties have been formed. Hitherto, indulgence has been shown to us. This cannot be the permanent disposition of foreign nations. A rupture with other powers is among the greatest of national calamities; it ought, therefore, to be effectually provided, that no part of a nation shall have it in its power to bring them on the whole. The existing Confederacy does not sufficiently provide against this evil. The proposed amendment to it does not supply the omission. It leaves the will of the states as uncontrolled as ever.

2. Will it prevent encroachments on the federal authority? A tendency to such encroachments has been sufficiently exemplified



among ourselves, as well as in every other confederated republic, ancient and modern. By the Federal Articles, transactions with the Indians appertain to Congress, yet in several instances the states have entered into treaties and wars with them. In like manner, no two or more states can form among themselves any treaties, &c., without the consent of Congress; yet Virginia and Maryland, in one instance — Pennsylvania and New Jersey, in another — have entered into compacts without previous application or subsequent apology. No state, again, can of right raise troops in time of peace without the like consent. Of all cases of the league, this seems to require the most scrupulous observance. Has not Massachusetts, notwithstanding, (the most powerful member of the Union,) already raised a body of troops? Is she not now augmenting them, without having even deigned to apprise Congress of her intentions? In fine, have we not seen the public land dealt out to Connecticut to bribe her acquiescence in the decree constitutionally awarded against her claim on the territory of Pennsylvania? — for no other possible motive can account for the policy of Congress in that measure. If we recur to the examples of other confederacies, we shall find in all of them the same tendency of the parts to encroach on the authority of the whole. He then reviewed the Amphictyonic and Achæan confederacies, among the ancients, and the Helvetic, Germanic, and Belgic, among the moderns; tracing their analogy to the United States in the constitution and extent of their federal authorities; in the tendency of the particular members to usurp on these authorities, and to bring confusion and ruin on the whole. He observed, that the plan of Mr. Patterson, besides omitting a control over the states, as a general defence of the federal prerogatives, was particularly defective in two of its provisions. In the first place, its ratification was not to be by the people at large, but by the *legislatures*. It could not, therefore, render the acts of Congress, in pursuance of their powers, even legally *paramount* to the acts of the states. And, in the second place, it gave to the federal tribunal an appellate jurisdiction only even in the criminal cases enumerated. The necessity of any such provision supposed a danger of undue acquittal in the state tribunals: of what avail would an appellate tribunal be after an acquittal? Besides, in most, if not all, of the states, the executives have, by their respective *constitutions*, the right of pardoning: how could this be taken from them by a legislative ratification only?

3. Will it prevent trespasses of the states on each other? Of these, enough has been already seen. He instanced acts of Virginia and Maryland, which gave a preference to their own citizens in cases where the citizens of other states are entitled to equality of privileges by the Articles of Confederation. He considered the emissions of paper money, and other kindred measures, as also aggressions. The states, relatively to one another, being each of them either debtor or creditor, the creditor states must suffer unjustly

from every emission by the debtor states. We have seen retaliating acts on the subject, which threatened danger, not to the harmony only, but the tranquillity of the Union. The plan of Mr. Patterson, not giving even a negative on the acts of the states, left them as much at liberty as ever to execute their unrighteous projects against each other.

4. Will it secure the internal tranquillity of the states themselves? The insurrections in Massachusetts admonished all the states of the danger to which they were exposed. Yet the plan of Mr. Patterson contained no provisions for supplying the defect of the Confederation on this point. According to the republican theory, indeed, right and power, being both vested in the majority, are held to be synonymous. According to fact and experience, a minority may, in an appeal to force, be an overmatch for the majority; — in the first place, if the minority happen to include all such as possess the skill and habits of military life, with such as possess the great pecuniary resources, one third may conquer the remaining two thirds; in the second place, one third of those who participate in the choice of rulers may be rendered a majority by the accession of those whose poverty disqualifies them from a suffrage, and who, for obvious reasons, must be more ready to join the standard of sedition than that of established government; and, in the third place, where slavery exists, the republican theory becomes still more fallacious.

5. Will it secure a good internal legislation and administration to the particular states? In developing the evils which vitiate the political system of the United States, it is proper to take into view those which prevail within the states individually, as well as those which affect them collectively; since the former indirectly affect the whole, and there is great reason to believe that the pressure of them had a full share in the motives which produced the present Convention. Under this head he enumerated and animadverted on — first, the multiplicity of the laws passed by the several states; secondly, the mutability of their laws; thirdly, the injustice of them; and, fourthly, the impotence of them; — observing that Mr. Patterson's plan contained no remedy for this dreadful class of evils, and could not therefore be received as an adequate provision for the exigencies of the community.

6. Will it secure the Union against the influence of foreign powers over its members? He pretended not to say that any such influence had yet been tried: but it was naturally to be expected that occasions would produce it. As lessons which claimed particular attention, he cited the intrigues practised among the Amphictyonic confederates, first by the kings of Persia, and afterwards, fatally, by Philip of Macedon; among the Achæans, first by Macedon, and afterwards, no less fatally, by Rome; among the Swiss, by Austria, France, and the lesser neighboring powers; among the members of the Germanic body, by France, England, Spain, and Russia; and in the Belgic republic, by all the great neighboring powers. The plan

of Mr. Patterson, not giving to the general councils any negative on the will of the particular states, left the door open for the like pernicious machinations among ourselves.

7. He begged the smaller states, which were most attached to Mr. Patterson's plan, to consider the situation in which it would leave them. In the first place, they would continue to bear the whole expense of maintaining their delegates in Congress. It ought not to be said that, if they were willing to bear this burden, no others had a right to complain. As far as it led the smaller states to forbear keeping up a representation, by which the public business was delayed, it was evidently a matter of common concern. An examination of the minutes of Congress would satisfy every one, that the public business had been frequently delayed by this cause; and that the states most frequently unrepresented in Congress were not the larger states. He reminded the Convention of another consequence of leaving on a small state the burden of maintaining a representation in Congress. During a considerable period of the war, one of the representatives of Delaware, in whom alone, before the signing of the Confederation, the entire vote of that state, and after that event one half of its vote, frequently resided, was a citizen and resident of Pennsylvania, and held an office in his own state incompatible with an appointment from it to Congress. During another period, the same state was represented by three delegates, two of whom were citizens of Pennsylvania, and the third a citizen of New Jersey. These expedients must have been intended to avoid the burden of supporting delegates from their own state. But whatever might have been the cause, was not, in effect, the vote of one state doubled, and the influence of another increased by it?<sup>115</sup> In the second place, the coercion on which the efficacy of the plan depends can never be exerted but on themselves. The larger states will be impregnable, the smaller only can feel the vengeance of it. He illustrated the position by the history of the Amphictyonic confederates; and the ban of the German empire. It was the cobweb which could entangle the weak, but would be the sport of the strong.

8. He begged them to consider the situation in which they would remain, in case their pertinacious adherence to an inadmissible plan should prevent the adoption of any plan. The contemplation of such an event was painful; but it would be prudent to submit to the task of examining it at a distance, that the means of escaping it might be the more readily embraced. Let the union of the states be dissolved, and one of two consequences must happen. Either the states must remain individually independent and sovereign; or two or more confederacies must be formed among them. In the first event, would the small states be more secure against the ambition and power of their larger neighbors, than they would be under a general government pervading with equal energy every part of the empire, and having an equal interest in protecting every part against every other part? In the second, can the smaller expect that their



larger neighbors would confederate with them on the principle of the present Confederacy, which gives to each member an equal suffrage; or that they would exact less severe concessions from the smaller states, than are proposed in the scheme of Mr. Randolph?

The great difficulty lies in the affair of representation; and if this could be adjusted, all others would be surmountable. It was admitted by both the gentlemen from New Jersey, (Mr. Brearly and Mr. Patterson,) that it would not be *just to allow Virginia*, which was sixteen times as large as Delaware, an equal vote only. Their language was, that it would not be *safe for Delaware* to allow Virginia sixteen times as many votes. The expedient proposed by them was, that all the states should be thrown into one mass, and a new partition be made into thirteen equal parts. Would such a scheme be practicable? The dissimilarities existing in the rules of property, as well as in the manners, habits, and prejudices, of different states, amounted to a prohibition of the attempt. It had been found impossible for the power of one of the most absolute princes in Europe, (the king of France,) directed by the wisdom of one of the most enlightened and patriotic ministers (Mr. Neckar) that any age has produced, to equalize, in some points only, the different usages and regulations of the different provinces. But, admitting a general amalgamation and repartition of the states to be practicable, and the danger apprehended by the smaller states from a proportional representation to be real, — would not a particular and voluntary coalition of these with their neighbors be less inconvenient to the whole community, and equally effectual for their own safety? If New Jersey or Delaware conceived that an advantage would accrue to them from an equalization of the states, in which case they would necessarily form a junction with their neighbors, why might not this end be attained by leaving them at liberty by the Constitution to form such a junction whenever they pleased? And why should they wish to obtrude a like arrangement on all the states, when it was, to say the least, extremely difficult, would be obnoxious to many of the states, and when neither the inconvenience, nor the benefit, of the expedient, to themselves, would be lessened by confining it to themselves? The prospect of many new states to the westward was another consideration of importance. If they should come into the Union at all, they would come when they contained but few inhabitants. If they should be entitled to vote according to their proportion of inhabitants, all would be right and safe. Let them have an equal vote, and a more objectionable minority than ever might give law to the whole.<sup>116</sup>

On a question for postponing generally the first proposition of Mr. Patterson's plan, it was agreed to, — New York and New Jersey only being, no.<sup>117</sup>

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# DEBATES

ON THE

## ADOPTION OF THE FEDERAL CONSTITUTION,

IN THE

### CONVENTION HELD AT PHILADELPHIA,

IN

## 1787;

WITH A DIARY OF THE DEBATES OF

## THE CONGRESS OF THE CONFEDERATION;

AS REPORTED

### BY JAMES MADISON,

A MEMBER, AND DEPUTY FROM VIRGINIA.

REVISED AND NEWLY ARRANGED

### BY JONATHAN ELLIOT.

COMPLETE IN ONE VOLUME.

## VOL. V.

### SUPPLEMENTARY TO ELLIOT'S DEBATES.

PUBLISHED UNDER THE SANCTION OF CONGRESS.

WASHINGTON:  
PRINTED FOR THE EDITOR.

1845.



THE  
DEBATES AND PROCEEDINGS  
IN THE  
CONGRESS OF THE UNITED STATES;  
WITH  
AN APPENDIX,  
CONTAINING  
IMPORTANT STATE PAPERS AND PUBLIC DOCUMENTS  
AND ALL  
THE LAWS OF A PUBLIC NATURE;  
WITH A COPIOUS INDEX.



VOLUME I,  
COMPRISING (WITH VOLUME II) THE PERIOD FROM MARCH 3, 1789,  
TO MARCH 3, 1791, INCLUSIVE.

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COMPILED FROM AUTHENTIC MATERIALS,  
BY JOSEPH GALES, SENIOR.

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WASHINGTON:

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1834.

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Debate on Resolution to form a Committee on Education.

1829 December 16.

Gales & Seaton's Register, page 476.

Mr. Richardson of Massachusetts quotes President Washington's 1790 Message to Congress:

Nor am I less persuaded that you will agree with me in opinion that there is nothing which can better deserve your patronage than the promotion of science and literature.

Knowledge is, in every country, the surest basis of public happiness.

In one, in which the measures of Government receive their impressions so immediately from the sense of the community as in ours, it is proportionably essential.

To the security of a free constitution, it contributes in various ways.

By convincing those who are entrusted with the public administration, that every valuable end of government is best answered by the enlightened confidence of the people, and by teaching the people themselves to know and to value their own rights; to discern and provide against invasions of them; to distinguish between oppression and the necessary exercise of lawful authority – between burdens proceeding from a disregard to their convenience, and those resulting from the inevitable exigencies of society; to discriminate the spirit of liberty from that of licentiousness – cherishing the first – avoiding the last – and uniting a speedy, but temperate vigilance against encroachments, with an inviolable respect for the laws.

Whether this desirable object will be best promoted by affording aids to seminaries of learning already established, by the institution of a National University, or by any other expedients, will be well worthy of a place in the deliberations of Congress.

(Education meant higher education, to George Washington and his colleagues, in the 1787 Northwest Ordinance, the 1790 Message to Congress, and Washington's 1796 Farewell Address that reiterates the 1787 Ordinance. The provision about education in the 1787 Northwest Ordinance isn't interchangeable with the provision about school financing in the 1785 Land Act. The two provisions speak of two different levels of education, and regard them differently.)

Dec. 16, 1829.]

Annual Treasury Report.—Committee on Education.

[H. of R.]

to amend the resolution by adding "or on the Western waters of the State of North Carolina."

Mr. JOHNSON, of Kentucky, said, he regretted this motion on the part of his friend from North Carolina, as calculated to produce a collision between the West and the South as to the location of an armory. He was perfectly willing to vote for an independent proposition to inquire into the expediency of the erection of an armory in the South, but he was unwilling to connect it with a proposition for an armory in the West. For the last fifteen years it had been in vain attempted to procure the establishment of a National Armory on the Western waters, notwithstanding the unanimous opinion of the West, concurred in by the executive officers of the Government, that a Western armory was necessary, not to gratify individuals interested in its location, but for the defence of the country, and to prevent prodigal expenditure of the public moneys in transportation of arms, &c. We have now National Armories at Springfield, in Massachusetts, and at Harper's ferry, in Virginia; and a report had been made to Congress, at his own instance, pointing out the various sites which the United States' engineers had thought would be advantageous for an armory in the Western country. But, although his immediate constituents were deeply interested in the establishment of an armory at the Horse Shoe bend, and others equally interested in other sites, he despaired ever seeing in his day an armory established in the West at all, unless upon the broad principle of giving the Executive of the United States the power of selecting a site, as had been done heretofore in the case of the armory at Springfield, and that at Harper's ferry. Having no objection to inquiring into the expediency of establishing an armory in the West, as well as in the South, but being opposed to confounding the two propositions, Mr. J. moved to strike out of Mr. CARSON'S amendment the conjunction *or*, and insert *and*, which would have the effect to separate the two propositions, instead of connecting them.

Mr. CARSON said, he was entirely disposed to gratify his friend from Kentucky; but, as his motion had been made on the impulse of the moment, and could be readily modified to meet his friend's views, he moved, to give opportunity for that purpose, that the resolution should be ordered to lie upon the table for the present.

The motion was agreed to.

#### ANNUAL TREASURY REPORT.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting his annual report upon the state of the finances.

The report having been announced from the Chair,

Mr. BUCHANAN moved that ten thousand copies of the report, and the documents accompanying it, be printed.

Mr. WHITTLESEY proposed six thousand copies, being the largest number ever printed of a public document before this session.

Mr. BUCHANAN said that the Annual Report from the Treasury Department was always looked to with great interest by the people; that it was too voluminous to find admission at large into the newspapers; that its general circulation was very desirable, &c. Ten thousand copies had been ordered to be printed of the documents accompanying the message of the President; and this document, he presumed, would be considered of at least equal importance.

Mr. WHITTLESEY said, he admitted that this document was one of importance, and sought for with avidity. He thought, however, that the largest number of copies ever before printed, was sufficiently large now; especially as the material and substantial part of the report would find its way into every newspaper in the country. He was disposed, he said, to observe, as far as was consistent with a prudent regard to the public interest, the system of eco-

nomy recommended in the report of the Committee of Retrenchment at the session before the last; and he could not conceal his surprise that gentlemen who were, at the last session, so anxious to reduce the amount of expenditure, especially on objects of this nature, to which they seemed to have directed much of their attention, should now show such a disposition to swell it instead of reducing it.

Mr. BUCHANAN said, he was happy to find that the gentleman from Ohio was now so decided an advocate for retrenchment; not knowing, however, that he had ever found him otherwise. He did not know but, in pursuit of this object, he and the gentleman from Ohio would be found going hand in hand. But this [Mr. B. said] was not the point at which they ought to begin to retrench. Retrenchment ought not to begin with communication of information of this sort to the people, who are more interested in knowing exactly what has been the management of their financial concerns, than, perhaps, in any other subject. If we are to begin the work, [said Mr. B.] let it be with something else, more in accordance with the proper principles of retrenchment than this.

The question was then taken on printing the largest number proposed, ten thousand copies, and decided in the affirmative.

WEDNESDAY, DECEMBER 16, 1829.

The resolution came up which was yesterday moved by Mr. RICHARDSON, of Massachusetts, for the addition to the standing committees of a

#### COMMITTEE ON EDUCATION.

The resolution having been read,

Mr. RICHARDSON said that his proposition was a simple one, proposing only that a standing Committee on Education should be provided, by the rules and orders of the House. Unless it was made necessary, by objections to the resolution, he should not occupy any portion of the time of the House upon it, but submit it for decision without remark.

Mr. HALL said, in due deference to the gentleman who presented this resolution, the subject was one which he conceived did not properly come within the control of Congress. I shall, [said he,] therefore, feel myself bound to object to the resolution. The subject of education, evidently, so far as legislation can be carried to it, properly belongs to the State authorities. If we go on assuming authority over subjects entirely foreign to our sphere of authority, where are we to end? We already have much extrinsic matter. As an instance, I will mention the subject of agriculture; over which we have, I believe, a standing committee. This, I have always been at a loss to reconcile to my idea of the just power of Congress. If we go on engulfing every subject to which legislation can be carried, to what result must we come? Shall we not effectually assume all the power of the State authorities? This must necessarily be the result. Sir, there is a doctrine advanced, and properly advanced, and sustained by the Supreme Court of the United States, a doctrine properly deduced from one of the plainest provisions of the constitution—it is, that all the powers of this Government, though limited, are plenary, within their proper sphere. I admit the soundness of this doctrine; but if so, it at once puts this subject to rest. I presume neither the gentleman himself, nor any other, will pretend that the States have not the right to legislate upon this subject. If this be so, it is decisive that this Government cannot, because its power over the subject, being plenary, is necessarily exclusive, and therefore not to be participated. It is not my object to detain the House; but for the reasons given, I object to the resolution.

Mr. DAVIS, of South Carolina, expressed a desire to know what were the particular views which had induced

H. of R.]

Committee on Education.

[Dec. 16, 1829.]

the gentleman from Massachusetts to bring forward this proposition.

Mr. STORRS, of New York, made a few observations, the import of which was, that he was perfectly willing, when any subject requiring it should be before the House, to give it direction to a proper committee. He was not aware, however, of any necessity for a standing committee on the subject. The only way in which it had heretofore been directly presented to the consideration of the House, was in the shape of propositions connected with grants of public lands, which had been, as matter of course, referred to the Committee on the Public Lands. Believing the consideration of such propositions to be safely lodged in the hands of that committee, he had no disposition to transfer it to another select committee. As at present advised, therefore, he should vote against the resolution.

Mr. RICHARDSON said, that the importance of education to the people of the United States, induced him to advocate the adoption of the resolution now before the House.

The gentleman from New York [Mr. H. R. STORRS] has said that he knows not what a standing Committee on Education can have to act upon. Mr. R. said, he would reply to the gentleman, that such a committee would have the whole subject to act upon—a long neglected subject, and of the highest importance to the welfare of this Union.

This subject had been most earnestly and repeatedly recommended by the great patrons of liberty—the fathers of American independence—the founders of this republic. Permit me [said Mr. R.] to call the attention of the House to the opinion contained in the message of the first President of the United States to Congress, in 1790:

“Nor am I less persuaded that you will agree with me in opinion that there is nothing which can better deserve your patronage than the promotion of science and literature. Knowledge is, in every country, the surest basis of public happiness. In one, in which the measures of Government receive their impressions so immediately from the sense of the community as in ours, it is proportionably essential. To the security of a free constitution it contributes in various ways. By convincing those who are entrusted with the public administration, that every valuable end of government is best answered by the enlightened confidence of the people, and by teaching the people themselves to know and to value their own rights; to discern and provide against invasions of them; to distinguish between oppression and the necessary exercise of lawful authority—between burdens proceeding from a disregard to their convenience, and those resulting from the inevitable exigencies of society; to discriminate the spirit of liberty from that of licentiousness—cherishing the first—avoiding the last—and uniting a speedy, but temperate vigilance against encroachments, with an inviolable respect to the laws. Whether this desirable object will be best promoted by affording aids to seminaries of learning already established, by the institution of a National University, or by any other expedients, will be well worthy of a place in the deliberations of the Legislature.”

—*Washington's Message to Congress.*

Mr. Speaker, this is not a solitary recommendation of this subject to the attention of Congress. In similar language, it has been repeatedly urged upon Congress by Washington, Jefferson, Madison, and others.

If it be true, as the gentleman from New York says, that a committee on education would have nothing to act upon, the fact is enough to en crimson the cheek of every friend to his country with the blush of deep mortification. It is high time that there were a committee to make this a subject of attention—to devise and mature measures to promote an object of vital importance to this republic.

The gentleman from North Carolina [Mr. HALL] has stated that he has constitutional objections to the proposed measure. Is it possible that the constitution prohibits the power to raise a committee on education, whilst there are

committees on agriculture, manufactures, Indian affairs, and various interests, never named in the constitution? What is the language of the constitution? “We, the people of the United States, in order [among other things] to promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America.” The eighth section, which enumerates the powers of Congress, declares expressly that “the Congress shall have power to provide for the general welfare of the United States;” and “to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution.” Is it possible to doubt that Congress is vested by the constitution with power to pass any laws, or adopt any measures, not prohibited by it, which are essential “to promote the general welfare?” All unite in bearing testimony that the general diffusion of knowledge in the United States is essential “to the general welfare, and to secure the blessings of liberty.” Singular, indeed, would it be, if the framers of the constitution had bound their own hands, and the hands of their posterity, under articles and sections to exclude the great law of self-preservation from the system. I cannot impute to them, nor to the system, a folly so stupendous.

It is demanded, if measures for the promotion of education were deemed so important, why have they not been adopted? My answer is, that a favorable moment for the purpose has not before occurred. Soon after the immortal Washington recommended this subject to the attention of Congress, the civilized world was wrapt in a flame of war and revolution. Our revenue was reduced or exhausted in measures for self-defence. This country suffered from many causes of embarrassment.

When prosperity began again to dawn upon the republic, the illustrious Jefferson recommended to Congress the same subject. But soon again embarrassments and war dried up and exhausted the resources of the country. To the discharge of the public debt the revenue has been applied, until the moment has nearly arrived when it will have been wholly cancelled. At the same time the revenue is gradually increasing, so that a large surplus will remain in the national treasury. To what purpose more valuable to the United States, or more honorable to this Government, can that surplus be applied, than to the purpose of education? It may well become the guardians of the public welfare to consider, that if this surplus of revenue should not be applied in a manner to satisfy the people that it is beneficial to the general welfare, they may indignantly send up a power here that shall cause the revenue to be abolished; an event which all would have cause to deplore. Let the revenue be abolished, and the Union would be prostrate at the feet of her enemies. No, sir, rather let measures be adopted to apply the surplus of revenue to the promotion of education. The present is a most favorable moment to devise a plan for this purpose. It is virtually recommended by the President, in his message just communicated, where we are informed that the amount required for the discharge of the public debt will be at the disposal of the Government for other important objects. For these general reasons, I am in favor of the resolution. Regretting to occupy the time of the House, I submit the question without further remarks.

Mr. ARCHER, of Virginia, said, that, in common, he had no doubt, with many members of the House, he should have a good deal to say on the subject of this resolution, if he could conceive (which he did not) that there were any danger of its adoption. He was persuaded that the honorable mover had not meditated fully the extent of the question which the resolution went to raise. It was one of the largest, and, in the most favorable aspect, contestable questions of power which had been ever presented in the operation of the Government. It was true, as the



# HISTORY

OF

THE PROCEEDINGS AND DEBATES

OF

## THE SENATE OF THE UNITED STATES,

AT THE FIRST SESSION OF THE FIRST CONGRESS, BEGUN AT THE CITY OF  
NEW YORK, MARCH 4, 1789,

UNDER THE CONSTITUTION SUBMITTED BY THE FEDERAL CONVENTION IN  
PHILADELPHIA, SEPTEMBER 18, 1787.

[This seems to be a proper place to notice a fact, which is necessary to account for the meagreness of the report of the Senate proceedings in the earlier days of the Government, viz: that the Legislative as well as Executive sittings of the Senate were held *with closed doors* until the second session of the third Congress, with the single exception of the discussion of the contested election of A. GALLATIN, as Senator from Pennsylvania, during which discussion the galleries were opened by a special order of the Senate. On the 20th February, 1794, the Senate came to a resolution that, after the end of that session of Congress, the galleries of the Senate should be permitted to be opened whilst the Senate should be engaged in its Legislative capacity, unless specially ordered otherwise. This, it will be perceived, was an important change in the constitution of the Senate.]

WEDNESDAY, March 4, 1789.

This being the day for the meeting of the new Congress, the following members of the Senate appeared and took their seats:

From New Hampshire, JOHN LANGDON and PAINE WINGATE.

From Massachusetts, CALEB STRONG.

From Connecticut, WILLIAM S. JOHNSON and OLIVER ELLSWORTH.

From Pennsylvania, WILLIAM MACLAY and ROBERT MORRIS.

From Georgia, WILLIAM FEW.

The members present not being a quorum, they adjourned from day to day, until

WEDNESDAY, March 11.

When the same members being present as on the 4th instant, it was agreed that a circular should be written to the absent members, requesting their immediate attendance.

THURSDAY, March 12.

No additional members appearing, the members present adjourned from day to day, until

WEDNESDAY, March 18.

When no additional members appearing, it was agreed that another circular should be written to eight of the nearest absent members, par-

ticularly desiring their attendance, in order to form a quorum.

THURSDAY, March 19.

WILLIAM PATERSON, from New Jersey, appeared and took his seat.

FRIDAY, March 20.

No additional member appeared.

SATURDAY, March 21.

RICHARD BASSETT, from Delaware, appeared and took his seat.

A sufficient number of members to form a quorum not appearing, the members present adjourned from day to day, until

SATURDAY, March 28.

JONATHAN ELMER, from New Jersey, appeared and took his seat.

No other member appearing, an adjournment took place from day to day, until

MONDAY, April 6.

RICHARD HENRY LEE, from Virginia, then appearing, took his seat, and formed a quorum of the whole Senators of the United States.

The credentials of the members present being read and ordered to be filed, the Senate pro-



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other on the 26th instant, by the committee appointed to confer with a committee of the Senate, to consider and report what newspapers the members of Congress shall be furnished with at the public expense, and to receive proposals for printing the acts, and other proceedings of Congress; and the first report, in the words following, viz.

“That, in their opinion, public economy requires that the expense heretofore incurred by the public, of supplying every member of Congress with all the newspapers printed at the seat of Congress, should be retrenched in future; but as your committee consider the publication of newspapers to be highly beneficial in disseminating useful knowledge throughout the United States, and deserving of public encouragement, they recommend that each member of Congress be supplied, at the public expense, with one paper, leaving the choice of the same to each member; and that it be the duty of the Secretary of the Senate, and Clerk of the House of Representatives, to give the necessary directions to the different printers, to furnish each member with such paper as he shall choose.”

Which being read and debated,

*Resolved*, That this House doth disagree to the said report.

The other report being again read, and amended to read as followeth:

“That it would be proper that it should be left to the Secretary of the Senate, and Clerk of the House of Representatives, to contract with such persons as shall engage to execute the printing and binding business on the most reasonable terms, the paper being furnished by the said Secretary and Clerk to such person at the public expense. That such persons as they shall contract with, shall be obliged to render a state of their accounts quarterly, and that six hundred copies of the acts of Congress, and seven hundred copies of the journals, be printed and distributed to the executive and judiciary, and heads of departments of the Government of the United States, and the executive, legislative, and judiciary of the several States.”

*Resolved*, That this House doth agree to the said report.

*Ordered*, That the Clerk of this House do acquaint the Senate therewith.

#### WESTERN LANDS.

The House, on motion of Mr. SCOTT, went into a Committee of the whole on the state of the Union, for the purpose of considering certain resolutions he had prepared respecting the disposal of the land in the Western Territory, Mr. TRUMBULL in the chair.

Mr. SCOTT presumed there was little need of argument to prove to the committee the necessity of taking speedy measures with respect to the unsettled lands in the Western Territory. The dissolution of the Board of Treasury, and the death of the late Geographer of the United States, are adventitious circumstances, which tend to increase the necessity. Gentlemen are acquainted with the number of sales which have been made to some of the citizens of the United States; they consequently know that the Unit-

ed States are under an obligation to complete the surveys of those lands which they have made sale of. They know, also, that until this is done, they cannot receive a farthing of the millions of dollars due on those contracts; they will not only be unable to receive the principal, but will be paying interest for the same. Besides this, there are other considerations for putting the business on a new footing. The mode hitherto pursued of selling lands has been very expensive to the United States. Perhaps, on inquiry, we shall find, that the specie it has cost us in getting the land surveyed, and sales completed, would have purchased as many certificates as we get for the sale of the land. The lands are also proposed to be sold in too great quantities. It is very difficult to form a company for the purchase of a million acres. It ought to be sold in small quantities, to make the sales more certain and numerous; and, consequently, increase the public income. On this principle, it will be well to open a land office, and grant the soil in such quantities as may suit the applications. By this means more may be expected for the purchase, than when it is struck off, at a wholesale price, by the million acres; and in this way the land office will be conducted without expense, which will be fixed on the purchaser, so that the whole money the lands may bring will come into the treasury without deduction.

There are other considerations why a land office should be opened for the sale of that territory in the way just mentioned. There are, at this moment, a great number of people on the ground, who are willing to acquire by purchase a right to the soil they are seated upon. Allured by its fertility, the agreeableness of the climate, and the prospect of future ease to themselves and families, they would not seek a change. Kentucky, already full, at least there are no more valuable lands to be got there with a clear title, can receive no more emigrants: they therefore turn their wishful eyes upon the lands of the Union. They hope to get them of Congress upon as good terms as they can procure them of the speculators. What will these men think, who have placed themselves on a vacant spot, anxiously waiting its disposition by the Government, to find their pre-emption right engrossed by the purchaser of a million of acres? Will they expose themselves to be preyed upon by these men? They might submit to this, but they have other offers.

There are seven thousand souls waiting for lands; they will have them here or elsewhere; but there is some danger, if they cannot be accommodated within the boundaries of the United States, they will do one of two things: either move into the Spanish territory, where they are not altogether uninvited, and become an accession of power to a foreign nation forming to us a dangerous frontier; or they will take this course, move on the United States' territory, and take possession without your leave. What then will be the case? They will not pay

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you money. Will you then raise a force to drive them off? That has been tried: troops were raised, and sent under General Harmer, to effect that purpose. They burnt the cabins, broke down the fences, and tore up the potato patches; but three hours after the troops were gone, these people returned again, repaired the damage, and are now settled upon the lands in open defiance of the authority of the Union. But nevertheless they are willing to pay an equitable price for those lands; and, if they may be indulged with a pre-emption to the purchase, no men will be better friends to the Government. They went on the ground with an intention of purchasing, and are kept there by a hope that the Government will see their interest, and dispose of the land upon reasonable terms. But if you do not listen to their request, if you neglect or despise their offers, and they prove too weak to resist the omnipotent arm of Government, they will have recourse to a neighboring Power for protection. Hopes of that protection are now held out to them; it is my duty to inform you of the fact. They will be led to think their interest is separate from yours on the Atlantic shores. It will take prudent management to prevent the fatal effects of a commotion in that country. One of the most unhappy things we could do, would be to refuse selling those lands in less quantities than by the million of acres; it would certainly be a cause of disgust, if not of separation. If the object was to prevent the settlement of the country, it would be another thing; but that cannot be accomplished, it is not in the power of any force on earth to prevent the increase of the population now begun; it is therefore much better that we should incline them to friendship, than oblige them to become our enemies. The emigrants who reach the Western country, will not stop until they find a place where they can securely seat themselves. Your lands first offer; their fertility and agreeableness will tempt them to pitch there; but, to secure them, they must have a well grounded hope that the lands they cultivate may become their own. To encourage this, you must open that territory to them, and let them have lands for pay. You must go further, you must open the land office in that country, because it will be impossible for the indigent persons to travel far for an office-right. You can then establish a Government among them, and derive advantages from them which are now totally lost. They wish for your Government and laws, and will be gratified with the indulgence; but they wish also to acquire property under them; they wish for your lands, and what good reason can be offered to warrant a denial? If they cannot get your land, they must go further, and obtain it of foreigners, who are desirous of having them at any rate, who will give them lands without pay.

These observations are sufficient, no doubt, to evince the necessity of doing something with respect to the Western territory, and something different from what has hitherto been

done. In order that the committee may have a full view of my ideas, I will read the plan I have in my hand upon which a law may be founded.

He here read a previous resolution, to be followed by the plan, which was to this effect:

*Resolved*, That it is the opinion of this committee, that an act of Congress ought to pass for establishing and regulating a land-office, for the sale of the vacant and unappropriated land in the Western territory.

[Here, by way of separate resolutions, followed in detail the constituent parts of this office, and the routine in which the business should be conducted, directing the expense of the office to be supported by the fees payable before the warrants and patents were delivered.]

Mr. BOUDINOT was well convinced of the importance of the subject; but did not think the committee ripe for a decision. The other departments were not established, therefore it was best to leave the resolutions on this subject as much at large as possible. He had no objection to an adoption of a general resolution, and the appointment of a sub-committee, to consider of and arrange the business; but he could not consent to limit it in the manner the gentleman proposed. Perhaps the measure might interfere with the former arrangements, and it would be difficult if not unjust to alter them. Besides, the plan of the business was mere matter of experiment. Moreover, the necessity of such an establishment may be superseded by throwing the business into the hands of one of the three great departments, which the House had agreed to organize. For these reasons, he moved to amend the resolution by striking out the words "a land office," which would leave the subject at large.

Mr. LEE seconded this motion.

Mr. VINING took it, that the committee ought to carry this measure into effect as speedily as it was possible. He was convinced, from what the gentleman near him (Mr. SCOTT) had said, that it was indispenably necessary that a land office should be established. He did not conceive this business could be engrafted upon either of the three grand departments; there must be an independent, unconnected office, established in the Western country, where the necessary communications may be made, and the money can be secured to the officer of the treasury. Why then should gentlemen combine objects which are distinct in their nature, and throw the whole weight of this branch of the Government upon another already well burthened with business?

Mr. SCOTT admitted his measure to be mere matter of experiment, but gentlemen ought not to object to it on that account, because it was an experiment that would cost nothing; the officers were to have nothing but fees for their services.

Mr. CLYMER did not believe the committee were prepared for a decision at this time. He considered the subject to be as intricate and difficult as it was interesting; and therefore hoped full time would be given for investigation.



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Many persons had purchased large quantities of lands of the late Congress, with a view to sell them out in small lots, to accommodate the people who are inclined to settle upon them. If Congress now open a land office for the sale of small quantities, it will no doubt overcast the prospect of advantage which induced the former, and may induce future purchasers to apply for large grants. These observations, and others which would readily occur to every gentleman, would satisfy the committee that they ought not to precipitate the business. For this reason, he moved the rising of the committee.

Mr. WHITE opposed the rising of the committee, for the reasons suggested. He was confident every member saw the propriety of doing something speedily in the business, and he hoped they would agree to the resolution, as the best mode of disposing of the land, and giving satisfaction to the people.

Mr. MADISON had no objection to the rising of the committee, as the means of obtaining information; but he thought the business deserving of the earliest attention. The clear and full manner in which the gentleman from Pennsylvania had opened the subject to the view of the committee, left no doubt on his mind of the propriety of taking some early measures to accomplish the business in the manner suggested by that gentleman. The facts and intelligence mentioned were too important to be passed lightly over; he should for the present agree to rise, but hoped the subject would be resumed in the House.

The question was taken on the first resolution moved by Mr. SCOTT, and passed in the affirmative; the others remaining on the table.

The committee then rose and reported progress.

Mr. GERRY then moved, that a committee be appointed to consider the state of the unappropriated lands in the Western territory, and to report thereupon.

Mr. VINING thought this motion contradictory to the one just adopted in committee. If time was necessary for obtaining information, it was useless to set a committee about the business, because every gentleman might have easy access to all the former Congress had done on this subject.

Mr. PAGE disliked the appointment of a sub-committee on business which was before the whole, and doubted if it was in order.

Mr. GERRY said, it was of importance that the House should be made master of this subject, and he knew no way so likely to proceed in it, as by appointing a sub-committee to consider and inquire into the state of those lands. He looked upon this proposition to be detached from what was before the Committee of the whole, yet, it was of that nature as to reflect light upon the subject. He therefore hoped his motion would be agreed to.

Mr. SCOTT did not design to hurry the House or the committee into any measures, especially

if they were of doubtful policy; from his local situation he was possessed of facts, which it was impossible for many members of that House to be acquainted with. These facts he thought led to considerations of great importance to the United States. Under these circumstances, his duty led him to communicate to the House the information he had already given. He was far from wishing that Congress should proceed in the dark in their determinations on this subject; he rather wished for every information to be brought forward which could tend to illustrate it; and for that reason had cheerfully acquiesced in the rising of the committee. As he had some doubts with respect to the propriety of this motion, he hoped it would not be precipitated; he thought it was unnecessary to appoint a committee to consider the state of the unappropriated lands in the Western territory, because their situation was such as to stare every one in the face. No gentleman in that House was ignorant of the great sum of money due to Congress, upon completing the surveys of the grants already made. He supposed, likewise, that it was not in the power of the United States to make any alterations in their contracts with the purchasers of the land; a committee would therefore be useless.

He thought it was very clear, from the facts he had stated, that there was a necessity of adopting some measures like those he had proposed. If the gentleman by his motion intended to embarrass the business, or prevent any but the million acre purchasers from acquiring lands in that country, he was certain it would do an essential injury to the interests of the United States; the people, who are now disposed to settle, would go to the Spanish or English colonies; they would form a place of refuge, for all the outcasts of the Atlantic States, who, in such case, would become very dangerous neighbors. He had done his duty by bringing the subject before the House, and had no doubt but that others would do what was right in determining upon this question.

The motion was hereupon decided in the affirmative, and a committee consisting of Messrs. SCOTT, HUNTINGTON, and SHERMAN, was appointed. Adjourned.

#### FRIDAY, May 29.

The engrossed bill imposing duties on tonnage was read the third time, passed, and ordered to be sent to the Senate for concurrence.

Mr. PARTRIDGE, from the committee appointed to confer with a committee of the Senate, on the proper method of receiving into either House, bills or messages from the President of the United States, made a report; and the said report being amended to read as followeth:

That until the public offices are established, and the respective officers are appointed, any returns of bills and resolutions, or other communications from the President, may be re-

JUNE 16, 1789.]

*Duties on Imports.*

[H. OF R.]

SATURDAY, JUNE 13.

## COLLECTION OF REVENUE.

The House again resolved itself into a Committee of the whole on the bill to regulate the collection of the duties imposed on goods, wares, and merchandises imported into the United States; Mr. TRUMBULL in the chair. The bill underwent further discussion, and the general sentiment of the committee on the subject was pretty generally ascertained. Many observations were made as to the most eligible mode of realizing the duties into the public treasury. But previous to any ultimate decision, on motion of Mr. FITZSIMONS, the committee rose, for the purpose of affording an opportunity of referring the subject to another committee, in order that a new bill might be reported. A motion to this effect was carried, and MESSRS. GOODHUE, FITZSIMONS, LAWRENCE, BURKE, LIVERMORE, SHERMAN, and JACKSON formed the committee.

Mr. GERRY proposed a resolution, making it a standing order of the House, that, in future, the House shall adjourn from Friday to Monday; and

Mr. LEONARD offered a resolution for prefixing the constitution to the first volume of the Laws of Congress, when printed.

Both resolutions were ordered to lie on the table.

MONDAY, JUNE 15.

JOHN BROWN, from Virginia, and THEODORE SEDGWICK, from Massachusetts, appeared and took their seats.

On motion of Mr. GOODHUE, it was

*Ordered*, That Mr. SMITH, of Maryland, and Mr. PARKER, from Virginia, be added to the committee appointed on Saturday last on the subject of collecting duties on imposts.

## WESTERN LANDS.

Mr. SCOTT, from the committee to consider the state of the unappropriated lands in the Western territory, reported. This report contained a very particular geographical account of that country.

*Ordered*, That this report be referred to a Committee of the whole upon the state of the Union.

## DUTIES ON IMPORTS.

The House then proceeded to the consideration of the amendments, which had been proposed by the Senate, for the bill for imposing duties on goods, wares, and merchandises imported into the United States.

The enacting clause of the bill, viz. "The Congress of the United States," was amended by the Senate, by proposing to insert "The Senate and Representatives of the United States." This amendment was not concurred in.

That clause of the bill which made a discrimination between states and kingdoms in alliance with the United States, and those which

are not, with respect to the duty on distilled spirits, the Senate proposed should be struck out. A recapitulation of arguments used in the former progress of the bill on both sides of the question, with little variation, now took place. The result was a non-concurrence with the Senate.

A general concurrence with the Senate in their amendments to the bill was urged by several gentlemen. They observed that much time had already been expended in the discussion of the subject; that further delay would be sacrificing the revenue; that there was danger of our losing the benefit of the fall importations; that the high duties which had been voted by the House were contrary to the opinion of a large minority, having been carried by a very small majority; to the minority was now added the almost unanimous voice of the Senate: therefore, to reject the amendments of the Senate, was hazarding the fate of the present bill. The sentiment in favor of low duties was sanctioned by the invariable experience of the commercial world. They were always productive of greater revenue than high duties, as the latter held out a powerful temptation to evade the laws. The public voice, it was contended, was in opposition to high duties; and accounts received from mercantile characters in various parts of the Union confirmed the truth of this observation. That, as the operation and success of the laws, in the first instance, must depend upon the general opinion of their eligibility, it was rash to risk the popularity of the Government in a case where no risk was necessary. That the duty on spirits, in particular, was beyond all precedent, and would undoubtedly be evaded, as it was a premium to smuggle.

On the other hand, it was said, that the duties were, in general, conformable to the sentiments of the people, particularly on distilled spirits; that on bulky articles high duties could be realized with some degree of certainty; that the probable amount of the proposed duties would fall short of the exigencies of the Union; the proposed deduction in some cases would curtail it fifty per cent.; that it yet remained to be ascertained whether high duties, in many cases, could not be collected with as great facility as low, the prompt collection of both being matter of speculation at present; that it was conceded, on all hands, that a revenue must be obtained, or the country be ruined. Direct taxes could not be thought of; and even the excise would be unpopular. That the opinion of respectable commercial characters was in favor of the proposed duties, particularly the duty on spirits, which, agreeably to their ideas, could be easily collected, even if it had been set at a higher rate.

TUESDAY, JUNE 16.

A motion was made by Mr. WHITE, of Virginia, and adopted, that seats be provided for such members of the Senate as please to attend the debates, within the bar of the House.



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bring the business to an end. He acknowledged the peculiar situation of the navigation of the Chesapeake and its numerous waters; but he begged gentlemen would not insist upon any extraordinary privileges on that account, if they could avoid it, because it would tend to retard the great work they had in hand; besides, as there was a likelihood of getting considerable revenue from that quarter, they ought to submit to more restraints to secure it, than those ports at which little or no business is done.

Several gentlemen contended that a spirit of mutual forbearance and conciliation was indispensably necessary; that concessions and sacrifices must be made to secure the great object in contemplation; and that every indulgence not incompatible therewith, would certainly be extended.

The committee then proceeded to the consideration of other clauses, and after some time spent therein, they rose and reported.

Adjourned.

TUESDAY, July 7.

A message from the Senate informed the House, that they had concurred in the resolution for prefixing to the acts of the present Congress a correct copy of the constitution, and had appointed a committee to act jointly with a committee of this House to examine enrolled bills.

COLLECTION OF DUTIES.

The House again resolved itself into a Committee of the whole on the new collection bill. Mr. TRUMBULL in the chair. After some time spent therein, the committee reported progress, and obtained leave to sit again.

WEDNESDAY, July 8.

Mr. PAGE, from the committee to whom the petition of Andrew Ellicott was referred, made a report, which was ordered to lie on the table.

COLLECTION OF DUTIES.

The House again went into a Committee of the whole on the new collection bill. Mr. TRUMBULL in the chair, and made further progress therein; but, not having got through the same, had leave to sit again.

THURSDAY, July 9.

Mr. GERRY, from the committee appointed to prepare and report an estimate of the supplies requisite for the present year, and of the net produce of the impost, as agreed to by the House, made a report, which was ordered to lie on the table, and be printed.

COLLECTION OF DUTIES.

The House, in Committee of the whole, Mr. TRUMBULL in the chair, again resumed the consideration of the new collection bill. Not having got through the bill, the committee again rose and reported progress.

FRIDAY, July 10.

COLLECTION OF DUTIES.

The House again went into a Committee of the whole, Mr. TRUMBULL in the chair, on the new collection bill; and after going through the same, rose, and reported the bill, with the proposed amendments, to the House. The House resolved to take up and consider the report to-morrow.

SATURDAY, July 11.

COLLECTION BILL.

The House proceeded to consider the report of the Committee of the whole on the bill to regulate the collection of duties imposed on goods, wares, and merchandises imported into the United States; and the proposed amendments having been read and amended, were agreed to by the House.

Ordered, That the bill, as amended, be engrossed for a third reading.

MONDAY, July 13.

WESTERN LANDS.

The House resolved itself into a Committee of the whole on the state of the Union, Mr. BOUDINOT in the chair.

Mr. SCOTT requested that the report of the committee on the Western Territory might be read, which was read accordingly, as follows:

Resolved, That it is the opinion of this committee, that an act of Congress should pass for establishing a Land Office, and to regulate the terms of granting vacant and unappropriated lands in the Western Territory.

Mr. SCOTT.—In endeavoring, sir, to open the interesting subject now before you, I shall avoid the repetition of those ideas which I threw out on a former occasion, as far as my memory will serve me, and the nature of the subject will permit.

This subject, sir, will appear of great magnitude in point of interest, if we consider the extent of the territory; I think I shall not be far beyond the mark, if I say it is one thousand miles long by five hundred broad; nor if I say it is sufficient to contain two millions of farms; nevertheless, for greater caution, say it will contain one millions, (which is notoriously and greatly within the real contents,) and that each of these farms may be peopled by six souls, they will amount to six millions of inhabitants, double the number of the present inhabitants of the United States. From this view, it is an object of great concern. It will appear also an object of concern, if we contemplate the climate, the soil, and the waters of that country; consider that it lies in the heart of the temperate zone; its soil infinitely more rich and more fertile than any in the Atlantic States; its waters pure and good—in a word, it is such a territory as must command inhabitants, and will be peopled. Its situation in the middle of our conti-



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ment, gives the climate a salubrity that accommodates it to the emigrant from both Northern and Southern States. It is meeting them on a middle ground, softening the harsh restrictions of the rugged North, and breathing bland the zephyr grateful to the sun-scorched South. In short, it is such as gives to all who have seen it the utmost satisfaction—it is both healthy and agreeable.

If we consider the sources of wealth in that country, we shall at the present moment view it as a subject of no inconsiderable magnitude. From that country has been drawn, and hereafter may be drawn, considerable quantities of the most valuable exports our country affords; but of this the gentlemen in trade can give you a better account than I shall pretend to do; but I am of opinion the trade, and the furs and peltry it produces, are of great consequence to our commerce.

It will appear further, to be a subject worthy of our consideration, if we attend to the profit already derived to the United States from the sale of the soil, and which may be extended to any degree whatever; this will prove a valuable source for relieving the embarrassments to which the United States are subjected. But a very inconsiderable part of the soil, and that far from being the most excellent, has been disposed of, yet the sales amount to 4,936,863 dollars; land for almost five millions of specie dollars has been already sold in that district, a sum amounting to near one-fifth—to more than one-sixth—of the whole domestic debt of America. This treasure, which we possess, has done thus much towards extinguishing a debt bearing hard upon every part of the Union. Have any of the States done as much? Have any of them made an exertion equal to this inconsiderable effort? No, they have not. Have all the States together done as much? No, they are incapable of doing what this wilderness has done. This consideration alone renders it an interesting subject of immense future consequence, and worthy of the immediate attention of Congress.

We may consider further, that besides the sales, we have made satisfactory donations to the officers and soldiers of the late army, which may be fairly carried to swell the account; but after all this, the parts we have disposed of bear no proportion to the parts yet remaining, and from which money may be drawn. Can we hesitate then to call into operation a fund so immense and important to the immediate interests of the United States?

If we place it in another point of view, it will also appear a subject in which the United States are deeply engaged in point of national honor and good faith. The officers and soldiers to whom we made those donations, as a part of the price of their blood, and a reward for their long enduring toils and painful sufferings in the noblest cause, the freedom of their country, are certainly entitled to the fatherly assistance of Congress, in point of protection

and government. Can it be thought, without an outrage to humanity, that Congress intended to send them into the wilderness as outcasts from society—that the hand of Government should not be extended to them to protect them in their lives and property—that our gift was an abandonment, was an allurements to draw them without shelter, and leave them devoid of those blessings which their successful efforts have secured to us? My spirit rises indignant at the unjust suspicion.

But these are not the only circumstances in which the honor of Congress is engaged to extend its fostering care into that country. It is expressly stipulated by Congress, with the State of Virginia, that the French and Canadians, and other ancient settlers within her cession, should be protected and governed by Congress. These were, among other terms, agreed to by Congress when the conveyance of that territory was made; and Congress, by that act, plighted the good faith of the Union for the faithful performance thereof. People have gone upon those lands; they have been regularly purchased, and are paid for; they are consequently entitled to look to us for protection in their property.

A due observance of the treaties heretofore entered into with Indian tribes, must be enforced; if the country is settled by a lawless banditti, they will keep the nation in a perpetual broil with the savages; therefore, the guidance of the United States must go with the settlers, in order to procure the observance of such treaties. This is a further obligation in point of national honor and good faith, under which we lie with respect to that country.

I am likewise of opinion, that we shall find it a subject of considerable magnitude in point of policy. I presume the first two points will be readily given up, because they are incontrovertibly established by facts; but I feel aware that the point of policy may be contended with me. It may perhaps be objected, that the measure now proposed will lead or tend to a depopulation of the Atlantic States, and therefore ought not to be adopted. This is a circumstance I by no means wish. I am as far from desiring a depopulation of the Atlantic shores, as I am from fearing it on this ground. I am confident it will not operate in any considerable degree to bring about that event; but if it should be thought it would, that could be no solid objection against the measure. Whilst the desire of emigration continues, and lands are to be procured, settlers will find their way into that territory; nor is it in the power of Congress to withhold lands altogether, because they are to be got of others on better terms. There is superior encouragement held out to the people settling on the other side of the river Mississippi, where the soil is fertile, and the climate equally agreeable. In proof of this assertion, I will read to the committee the translation of a kind of proclamation issued by the Governor of the Spanish posts at the Illinois. [This paper contains an invitation to all persons inclined to

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settle in the Western country, offering as inducements, lands without charge, exemptions from taxes, protection in civil and religious liberties, besides provision and the implements of husbandry.] After this, Mr. S. proceeded: Now, sir, if Congress fear to sell their lands lest it tend to depopulate the Atlantic States, what must they apprehend from propositions like these? They will certainly have all the effect which encouragement from this quarter can have. It may be said, that Americans will not venture to live under the Spanish Government, or settle a Spanish colony. To this it may be replied, that when people, from their necessities or inclinations, are determined to emigrate, in order to mitigate their distresses, they think little of the form of Government; all they care for is relief from their present or approaching wants and troubles.

Nobody will emigrate from the Atlantic States but a certain description of men, and they will go whether you hold out this encouragement to them or not; they will pay little regard to Congressional restrictions. And here let me make one remark, drawn from my own observation. The forming settlements in a wilderness upon the frontiers, between the savages and the least populated of the civilized parts of the United States, requires men of enterprising, violent, nay, discontented and turbulent spirits. Such always are our first settlers in the ruthless and savage wild; they serve as pioneers to clear the way for the more laborious and careful farmer. These characters are already in that country by thousands, and their number is daily increasing, and will continue to increase; for congenial spirits will assimilate maugre all our endeavors to the contrary. But how will you prevent them? I should be glad to see a plan for hemming in the emigration to that territory; I think the thing wholly impracticable, therefore it becomes the immediate interest of Congress; to direct the emigration to a proper point; direct it to their own territory, rather than be inactive spectators of its silent, though rapid course to the Spanish and British dependencies; rather sell your lands and get something for them, than let your citizens leave your dominions. By improving a part, you add to the value of the remainder; their population will produce a hardy race of husbandmen and warriors, always at the command of the United States, to support and defend your liberty and property. These being facts, I leave it to the wisdom of the House to draw the inference.

I will make one further remark, with respect to the encouragement or discouragement of emigration. Suppose it was in the power of Congress to stop the course of the impetuous current, which has already won its way through insuperable obstructions, and spread itself over the fertile lands of the Ohio. I ask, with perfect security, if it is not such an act of contumacy, and inconsistency with the fundamental principles of the Government, that Congress

could not adopt it? Consider that many of your citizens are destitute of the comforts, nay, the common necessities of life, without a prospect of providing for the subsistence of themselves and families: I ask, would Congress prevent the emigration of such persons if they could? I think not; they would not act as kind protecting fathers to their people if they did. I presume this would be too serious an objection for any man to face, with a restraining proposition. I question if any man would be hardy enough to point out a class of citizens by name, that ought to be the servants of the community; yet, unless that is done, to what class of the people could you direct such a law? But if you passed such an act, it would be tantamount to saying that there is some class which must remain here, and by law must be obliged to serve the others, for such wages as they please to give.

This being the case, let us make the best of liberty, our people, and our land. Your citizens, I tell you, are already there by thousands; they are going by thousands more, and are every hour growing up into consequence. They never expect to return into the Atlantic States; plant them in your soil, add this wealth of population to your own, and form an empire illustrious as it is extended. Remember, ye sages of my country, an historic truth recorded for your instruction, that empire has been slowly, but invariably, moving from East to West; emigration has uniformly receded in that direction, from the time that our common parents quitted the garden of Eden, till the present hour; nor doubt but it will continue to pursue that course, as long as there are lands to be inhabited.

Those people, Mr. Chairman, who are there, growing up, must be provided with a Government in that country. Perhaps to this it may be objected, that they will not long continue in union with us. Perhaps arguments may be brought from the other side of the Atlantic, and we may be told with confidence that an extension of territory is infallibly the ruin of kingdoms. For examples in support of this opinion, we may be carried as far back as the eleventh epocha of the Romans, and there we may learn from judicious writers that the weight of the distant provinces brought about the fall of that empire. Now if I could grant this to be a fact, which I cannot, for I rather attribute that event to the pernicious privileges granted, and the immense sums thrown away on the capital of Constantinople, while the preservation of the ancient city was so difficult, and the division of the empire among the children and nephews of Constantine; but if it could be attributed to the extent of her territory, the comparison does not hold. The foundation of the Roman empire was laid upon fraud, rapine, and murder; they conquered, and their footsteps were marked with the blood of men more civilized than themselves; or they, with their wives and daughters, were carried captives, and sold at the shambles of Rome; their territory was laid waste, and colonies of children, purchased of their parents,



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were founded upon their ruin. Was it to be supposed that men would bear this savage barbarity longer than the arm of victory was pressing on them? Is this the manner in which we propose to settle the Western country? The comparison is too odious to be insisted upon.

There is a striking difference between the Government of the United States and that of the Roman provinces. The citizens of the first are bound together in the bond of equal liberty, and every State possesses within itself independent powers necessary to its support. The wretched inhabitants of the Roman provinces were the abject slaves of their lordly masters, who seldom behaved with moderation; their history is nothing but a series of injustice more or less disguised.

Another instance may, perhaps, be drawn from the separation of this continent from Great Britain. Here I would make two remarks: the first is, that the Atlantic ocean, of three thousand miles extent, formed such a natural boundary as to be a reason for separation when we should be prepared for it: the second is, that even this natural boundary did not furnish the reason for our independence. We were driven into that measure by necessity: our separation was brought about by the impolicy and oppressions of Great Britain. She wished to deprive us of the fruits of our industry, by establishing the doctrine of the omnipotence of Parliament, and wanted to attach us to them as provinces of slaves. I will not say, that if a like conduct were to take place on our part, with respect to the Western country, similar effects might ensue; but this can hardly happen under a Government founded upon the true principles of democracy; besides, I think we have had a sufficient lesson before our eyes to guard us against the attempt.

Much will depend upon the energy and force of the Government established in that country; it ought to be such as will furnish sufficient power for its own internal purposes, and also to secure it to the Union. But that is not the only tie by which its union is held. That country is attached to the Atlantic States by its natural situation. To be convinced of this truth, nothing more is necessary than to look upon the chart: all the commerce of that country must come through the States upon the sea-coast. We know, at Pittsburg, that we are a thousand miles nearer to the market than settlers at the mouth of the Ohio river. When we export our produce by that and the Mississippi, we know we can get easier home with our returns by the way of Philadelphia, than the others can by turning up and stemming the current of the Mississippi. Therefore, the imports for all that territory must come through the United States. From these considerations, I conclude it would be madness in the extreme for them to think of a separation, unless they were driven to it by a fatal necessity; they will be too sensible of its ill effects ever to attempt it.

But suppose, for a moment, that they break

off from the Union, and even become our enemies, it would be good policy in us to get as much as we can from them first, especially as they are disposed to give it us; let us make them extinguish part of our national debt before they leave us. The soil and climate of that country, as I said before, will be great inducements for emigrants to settle there. If they were to break off, they would know how to get money enough from the sale of the territory to support their Government, without any other resource whatever. If I, as a resident in that country, had the remotest view of a separation from the Atlantic States, I should be sorry to see Congress sell an acre of that land; for selling it, in that case, would be neither more nor less than preventing us from putting the money into our pockets when we became independent. If they meditate independency, the most likely way to make them so, will be to let their lands alone, in order to supply them with funds sufficient to support them in the measure. If they are sold, it will not be in their power.

Another consideration which shows the subject to be of great consequence to the Union, is the sales already made there, a partial mention of which I made in one of my former observations. By the terms of those sales, the United States are obliged to complete the surveys; this has not hitherto been done; of consequence, the money due for them cannot be had, nor the accumulating interest be suspended. The amount, as I stated before, is near five millions of dollars: of this sum, \$771,310 have been paid into the Treasury; the whole of the remainder will continue unpaid till the surveys are completed, namely, \$4,165,553, paying a daily interest of \$6844. This, gentlemen, is what we actually lose every day, for want of establishing some regulations on the subject. Is not this a matter of serious concern to the people of the United States, which requires our immediate attention? Then, if this is the case, if the subject is of such vast magnitude in all these points of view, it only remains to consider what is to be done with respect to it to procure the greatest good to the United States, and greatest benefit to the people.

I apprehend it will be found that a Land Office will effect these objects better than any other plan that can be devised. If this should be effectual, and no doubt can be entertained but it will, the inhabitants of the United States cannot, with a good grace, be called upon for heavy taxes in order to pay the interest on a debt which can be so easily and properly extinguished. Every individual who contemplates the subject, will see how much it is his interest to buy a few dollars in certificates, and purchase a piece of land with them, which will annihilate the debt, and prevent the demand for taxes to pay the interest; besides, it will remain as a security to reimburse the principal to the proprietor, as the population of the country extends; but, at all events, it would be but advancing four or five years' interest, and the

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whole debt would be absorbed. How much better is this than paying interest during our lives, and leaving our children to discharge the principal, or continue on their own shoulders the burthen of an annual interest of six per cent. From this view of the subject, it would appear every man's interest to become a purchaser in that country. This mixing of the interest would incorporate the body, and tend to increase the bands of union; it will occasion ties of consanguinity and affinity among us, which, added to the similarity of laws, customs, and manners, will form an inseparable cement, and compress the whole into the closest union. If it should be thought inconvenient for the citizens in the Atlantic States to purchase so largely as I have intimated, let them lay out but the amount of one year's tax in this way, and it will nearly extinguish the domestic debt, for which, otherwise, they will have to pay annually, forever, an equal sum to what I propose for them to advance. By the establishment of a Land Office such purchasers could be supplied.

I think this plan better on another consideration. If we mean to sell our lands for ready money, or mean to trust, we have a superior advantage. It is more probable that the necessitous person who wants the land for the subsistence of himself and family, will labor harder to procure a property of this kind, and secure it for himself, than the speculator who never means to pay a farthing until he has received it from the sale of the land; besides, the necessitous person is better able to buy of Government than of the speculator, because he can get it cheaper. The purchasers of large tracts retail out their land to this class of men, and certainly charge them something for their trouble. But if we sell on credit, as under the Proprietary Government was the practice in Pennsylvania, those who take out small quantities get their land surveyed, and set themselves down; they cultivate the ground, and erect buildings for their own accommodation. Land, in this improved state, furnishes a better security to Government for any arrearage of purchase money, than a large tract sold on speculation, and which lies in the same state of nature as it did when it was disposed of, perhaps adding thereto the expense of making the survey. If the land must revert to Congress at last for default of payment, we get nothing in the latter case; whereas, when sold in lots, if a man has settled himself down, and paid for his warrant and survey, which costs the Union nothing, but for the first price and interest thereon, it must strike every gentleman's mind that it would be disagreeable, after a man had made a settlement for three or four years, to have to turn out. Rather than do this, he would make every exertion to discharge the price; if his situation was so wretched as not to furnish the means, some of his neighbors, on such security, might befriend him; but at any rate Government would be secure. By this argument, I do not mean to insist that Congress should sell

their lands on trust; they may do so, or sell for ready pay, as their wisdom may think eligible. I shall be satisfied either way.

This plan does not prevent the sale of large tracts, (your million acre purchasers may be accommodated with the quantity they desire;) it only admits the sale of smaller quantities; and to that kind of people who stand in need of land, this plan would be much better (than the one heretofore pursued. It would be an immense saving, we should have no expense attending on the sales, no surveys to pay for, which have already been very expensive. We find that two thousand and eighty-one miles of a common survey line, has been run, at the rate prescribed by Congress, to 20,690 specie dollars, more than nine hard dollars for every mile. This expense is absolutely so enormous, that Congress had better give away their lands to those who will take and settle them, than pay it.

I think the convenience of the people is a subject not unworthy of being taken into view. My plan proposes that they should be able to perfect their titles on the spot. I fear not the objection which has been raised. It may be said, the titles ought not to be completed until it was done immediately under the eye of Congress. Let this be as it may, I will make one remark: can we not have every tie, every check, and security upon these officers that we have upon the collectors of the revenue? I think there is as much room for confidence in the one case as in the other. We can take care that the Secretary of the Land Office shall send in his accounts of patents and warrants. I think we may depend here upon a true return.

The Receiver of the office shall take nothing but public securities, which are not quite so great a temptation to embezzlement or illicit practices as money. The Surveyor will be a check upon both. I think the gentlemen employed in this business cannot be of very trifling character. In short, this department may be as well checked and balanced as any other; the expense of it will be nothing, because the officer may be supported out of the fees. This being the case, I shall conclude with moving that the committee adopt the resolution reported by the committee, and recommend it to the House to appoint a select committee to bring in a bill accordingly.

Mr. FERRISMONS asked if it would not be better to settle all the principles of the bill first, that the select committee might not lose their labor, as had been once or twice experienced, for want of this precaution.

He was in favor of some measure of this kind, though he had some doubts of the necessity there was supposed to be of establishing a Land Office.

The question was now taken on the resolution, and agreed to.

Mr. SCOTT then brought forward a string of propositions, to be put into the hands of the select committee, containing the principles upon which he wished the Land Office established, and the manner in which it should be regulated.



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One proposition was, to place the office under the direction of the Governor of the Western Territory.

Mr. STONE objected to this, because he conceived the Legislature would in this case appoint the officer, which is contrary to the constitution.

Mr. SHERMAN thought it best to delay the decision of this subject. It is certainly a matter of high importance to the Union, that this land be disposed of in the best manner. No doubt, if it is properly managed, but it will pay the principal and interest of all the debts of the United States, said he; but I have great objection to the manner of settlement proposed by the honorable gentleman from Pennsylvania. I think it would tend to greater advantage, to settle the country gradually, in compact bodies, as the inhabitants can be spared from the other parts of the Union. But this business ought to be managed with a degree of caution, lest we open a door to that field of speculation in the certificates of the United States, by which the holders of the securities may be treated with injustice.

It will be a better plan to settle the country by townships; so far I would be willing to go, and also make arrangements for completing the survey of those tracts already disposed of. Perhaps it might be well to give some of the township lots to settlers, without any charge, reserving others to sell at some future day, when they become more valuable, in consequence of the settlements around them. I apprehend we should get more money in this way than in that proposed. If men are to take out warrants, and lay them where they please, the settlers will break up the ground, and we shall be forced to sell after a while, for less money, because the lands will be picked and nothing but the refuse left; besides, people not knowing where others have located, may take up the same lots, and lay a foundation for eternal lawsuits and discontent.

Mr. LEE thought the Land Office ought to be at the seat of Government, consequently he differed from the gentleman from Pennsylvania (Mr. SCOTT) in his first principle. This being the case, he advised the rising of the committee, and wished the appointment of a select one, to investigate the subject, to examine all papers and contracts respecting the Western Territory, both of Congress and the several States, the deeds of cession, and the articles of confederation; from the report of such an examination, the House might be able to discover some proper plan for conducting the business. The magnitude of the subject demands the fullest investigation, and the wisdom of the Legislature will no doubt induce them to treat it according to its importance. He had no other view in moving the rising of the committee; but if gentlemen insisted upon a decision, he should vote against the resolution.

Mr. SCOTT.—The first gentleman who remarked upon my proposition, thinks we have no right

to appoint the officer who is to direct the business. If I understand what I brought forward, it does not go to appoint the officer, but to give additional duties to an officer already appointed; therefore, that objection falls to the ground.

The gentleman last up alleges, that the Land Office ought to be at the seat of Government. I would ask him if all those who want the lands live at the seat of Government? or rather will not the applications come from the remotest corners of the continent? It will be more difficult for real settlers to go to the seat of Government, than to purchase the land; but will it accommodate any class of men? There are few, who know what they are about, will come here to buy land, and then go up to the Ohio to look for it; if they act the part of prudent men, they will go and see the land first, and when they are there, they can more conveniently apply for what they want, than return by a circuitous march to the seat of Government for that purpose. I had the convenience of the purchasers in view when I made the proposition, and by far the greater part of them reside in the neighborhood. Men who are well able to pay you the price of the land cannot afford to travel to New York; they would be losers by the bargain if you were to give them the land without charge, for a journey down here would require three times the price of a common farm.

The gentleman from Connecticut (Mr. SHERMAN) seems to run away with an idea of settling that territory that can never take place; it has been tried without any success; the experiment shows that it tends to cull and destroy the land more than any other mode; besides, a man will give a third more for a spot of ground when he takes his choice, than he will if obliged to take it good or bad as it may be. There is no necessity for compelling people to settle close together in townships; the nature of the country and dread of the Indians will force them to do this; they always settle in strong parties for their own convenience.

The late settlers from New England experience the inconvenience of settling by townships; if they had suffered the pioneers I spoke of to precede them, their settlements would be more safe than they are.

Mr. SEDGWICK had no doubt of the necessity and propriety of disposing of the lands in the Western Territory, but he thought the office ought to be kept at the seat of Government, because it would be necessary to check the enterprising spirit which might grow up under the regulation. He knew much might be said on both sides; but he thought the people who were generally the first settlers on a frontier, were of that class who had little money or property, and consequently unable to purchase; if they wanted real purchasers, they must go to those who had the money to pay; not that he meant to argue against the accommodation of the one class or the other; indeed, he should be happy to serve both, if it would enable Congress to get the best market and highest price for their lands.



To bring the question fairly before the committee, he would move to strike out "Governor of the Western Territory," and insert "the principal officer of the Treasury Department."

Mr. VINING said it was a very important subject, but perhaps gentlemen were not prepared for a decision; if so, the question had better be put off till to-morrow. For his own part, he felt some diffidence in saying much on the subject, but he agreed perfectly with the honorable gentleman from Pennsylvania (Mr. SCOTT) in the principles of his plan. He concluded with moving that the committee rise.

Mr. MOORE thought very well of the plan, but was not prepared to decide. He suspected that if the last motion obtained, it would tend to favor speculators, and therefore he should be against it. He believed there was some justice in the observations thrown out by the gentleman from Connecticut, (Mr. SHERMAN,) but this might be complied with by limiting the sales to certain boundaries, that so the purchasers should not run over the whole Territory.

A desultory conversation arose, whether the resolution reported by the select committee, and adopted by the Committee of the whole on the state of the Union, should be reported to the House; when it was understood to be only one of the number brought forward by Mr. SCOTT, and, as such, not to be reported till the whole were gone through.

The committee now rose, and Mr. BONDINOT reported that the committee, according to order, had the state of the Union under consideration, but had come to no resolution thereupon.

#### COMPENSATION OF THE PRESIDENT, &c.

Mr. VINING wished to call the attention of the House to a business he apprehended not very lengthy; it was the report of a committee on the subject of compensation to be made to the President, Vice President, the members of the Senate and House of Representatives, for their services; he wished gentlemen to consider the situation of every one concerned in this business, themselves, and the continent at large. He hoped they would consent to take it up, and he flattered himself the discussion would not last longer than a day.

Mr. WHITE wished to go into a Committee of the whole on the business.

Mr. FRIZZIMONS did not like to enter upon a lengthy discussion of a point that was incapable of much elucidation by reasoning; he therefore was against going into a committee at this stage of the business. He observed, that the committee had reported something, and the members had been pretty generally consulted on the same. He hoped the House would despatch the business without delay or loss of time, if they were at all inclined to take it up.

Mr. WHITE thought it necessary to go into a committee, because there were a number of things mentioned, the reasons for which appeared to him very uncertain.

Mr. VINING said it was a subject of considerable delicacy, and he supposed very few gentlemen would be inclined to speak three or four times on a point; yet this was all the advantage gained by going into a committee. He was no more interested than others; every gentleman might judge of his own case, but after it had been before a committee of twelve, in order to get the fullest sense of the House upon the subject, he was inclined to receive it without so much circumlocution. He observed, that the business had originated in a Committee of the whole, and it was unusual to recommit it without showing some reasons why.

Mr. WHITE gave up his motion for a Committee of the whole, and said, before he consented to the report, he should be glad to know in what style it was expected that the President would live. He observed there was provision for the expenses of a house, furniture, secretaries, clerks, carriages and horses. Perhaps the sum proposed might be too much or too little. He should like to see an estimate of how much was necessary for keeping the table, the equipage, &c. before he decided. He hoped the committee would elucidate this subject.

There was another thing he wished to inquire of them. The Vice President's salary was charged at five thousand dollars; he could not conceive upon what principle that sum was reported. Did it bear a proportion to his services, or was it in proportion to what the members of the Senate and this House were to be allowed? There is nothing which obliges him to be attentive to his business. No doubt but the gentleman who holds that office at present will be regardful and diligent in executing the business assigned him; yet there is nothing to prevent the Vice President from residing at home and receiving his salary, without coming within the walls of the Senate-room. The Union is obliged to support him; but I, said he, would make that support conditional; he should have a liberal provision while in public life, but no longer. As to delicacy, I know of none, sir, that ought to be used while we are in pursuit of the public good. I speak therefore with candor what are my sentiments on this subject. Other gentlemen, no doubt, do the same; but I am clearly for examining into the principles before I agree to the conclusion.

Mr. PAGE was sorry to see gentlemen spinning out the time to little purpose; certainly, after having the subject under consideration for nearly three months, they might be able to decide.

If this business was fixed, and gentlemen knew they were to have but moderate salaries, it might perhaps tend to make them more expeditious; but at all events, they ought to know the rate at which they attend, in order to regulate their expenses. To some it might be a matter of no concern, because they could bear every thing of this kind for a twelvemonth, without inconvenience; but they ought to consider the situation of others. We are, said he, keeping the President here without any provision

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The committee appointed were, MESSRS. VINING, MADISON, BALDWIN, SHERMAN, BURKE, GILMAN, CLYMER, BENSON, GOODHUE, BOUDINOT, and GALE.

Then the House adjourned.

WEDNESDAY, July 22.

Mr. BURKE, from the committee appointed for the purpose, presented a bill for allowing a compensation to the President and Vice President of the United States; which was received, and read the first time.

*Ordered*, That it be an instruction to the committee appointed to bring in a bill for making a compensation to the members of the Senate and House of Representatives, that they do insert a clause or clauses, making compensation to the Serjeant-at-Arms, Messengers, and Door-keepers of the two Houses, for their services.

A petition was presented from Hannah Adams, praying that an exclusive privilege may be granted her, for a limited time, to publish and vend a work which she has compiled, entitled "An Alphabetical Compendium of the various religious sects which have appeared in the world, from the Christian era to the present day, with an appendix, containing a brief account of the different schemes of religion now embraced among mankind."

*Ordered*, That the petition do lie on the table.

The House resolved itself into a Committee of the whole House on the bill for settling the accounts between the United States and individual States, Mr. BOUDINOT in the chair; and, after some time spent therein, the committee rose, and reported that they had gone through the same, and made no amendment thereto.

On motion, *Ordered*, That the Committee of the whole House be discharged from further proceedings on the said bill, and that it be re-committed to Mr. BALDWIN, Mr. STURGES, and Mr. SMITH of South Carolina.

WESTERN LANDS.

The House then resolved itself into a Committee of the whole House on the state of the Union, Mr. BOUDINOT in the chair; and, after some time spent therein, the committee rose and reported that they had had the state of the Union under consideration, and come to a resolution thereupon, which was read and then delivered in at the clerk's table, where the same was twice read, and agreed to by the House, as follows:

*Resolved*, That an act of Congress ought to pass for establishing a Land Office, and for regulating the terms and manner of granting vacant and unappropriated lands, the property of the United States; that the said office be under the superintendance of the Governor of the Western Territory; that the land to be disposed of be confined to the following limits, viz:

That the tracts or parcels to be disposed of to any one person, shall not exceed — acres; that the price to be required for the same shall be — per acre;

and that every person actually settled within the said limits shall be entitled to the pre-emption of a quantity not exceeding — acres, including his settlement.

*Ordered*, That a bill or bills be brought in, pursuant to the said resolution, and that Mr. SCOTT, Mr. SYLVESTER, and Mr. MOORE, do prepare and bring in the same.

THURSDAY, July 23.

A bill for allowing a compensation to the President and Vice President of the United States was read the second time, and ordered to be engrossed and read the third time to-morrow.

On motion,

*Resolved*, That a committee be appointed to examine into the measures taken by Congress and the State of Virginia respecting the lands reserved for the use of the officers and soldiers of said State, on continental and State establishments, in the cession made by the said State to the United States, of the territory northwest of the river Ohio, and to report the same to this House, and that Mr. WHITE, Mr. PETER MURZENBURG, and Mr. SENEY, be of the said committee.

HOME DEPARTMENT.

On motion of Mr. VINING, the House resolved itself into a Committee of the whole on the state of the Union, Mr. BOUDINOT in the chair.

Mr. VINING introduced a resolution for the adoption of the committee, by which it is declared: That an Executive department ought to be established, and to be denominated the Home Department; the head of which to be called the Secretary of the United States for the Home Department; whose duty it shall be to correspond with the several States, and to see to the execution of the laws of the Union; to keep the great seal, and affix the same to all public papers, when necessary; to keep the lesser seal, and to affix it to commissions, &c.; to make out commissions, and enregister the same; to keep authentic copies of all public acts, &c., and transmit the same to the several States; to procure the acts of the several States, and report on the same when contrary to the laws of the United States; to take into his custody the archives of the late Congress; to report to the President plans for the protection and improvement of manufactures, agriculture, and commerce; to obtain a geographical account of the several States, their rivers, towns, roads, &c.; to report what post-roads shall be established; to receive and record the census; to receive reports respecting the Western Territory; to receive the models and specimens presented by inventors and authors; to enter all books for which patents are granted; to issue patents, &c.; and, in general, to do and attend to all such matters and things as he may be directed to do by the President.

Mr. BENSON objected to some of the duties mentioned in the resolution. He thought the less the Government corresponded with particular States the better, and there could be no necessity for an officer to see to the execution of



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*Registering of Vessels.*

[H. of R.]

TUESDAY, July 28.

Mr. VINING, from the committee to whom it was referred to take the subject of amendments to the constitution generally into their consideration, and to report thereon, made a report, which was ordered to lie on the table.

A message from the Senate informed the House, that they had passed the bill to regulate the collection of the duties imposed by law on the tonnage of ships or vessels, and on goods, wares, and merchandises imported into the United States, with several amendments, to which they desired the concurrence of the House.

The House immediately took said amendments into consideration, and concurred therewith.

The petitions of the Baron de Glaubeck, heretofore laid on the table, were referred to a select committee, consisting of Messrs. PAGE, SUMNER, and HEISTER.

The bill for registering and clearing vessels, and for regulating the coasting trade, was read a second time; and, on motion, the House resolved itself into a Committee of the whole upon it, Mr. BOUDINOT in the chair; and, after making some progress in its consideration, rose, and obtained leave to sit again.

WEDNESDAY, July 29.

The House again resolved itself into a Committee of the whole, Mr. BOUDINOT in the chair, on the bill for registering and clearing vessels, and for regulating the coasting trade; and agreed to some amendments thereto; but not having got through the same, rose, and obtained leave to sit again.

THURSDAY, July 30.

Mr. LIVERMORE introduced a resolution to supply each member, at the public expense, with two newspapers of the city, daily, such as he should choose. Ordered to lie on the table.

A message from the Senate informed the House that they had passed the bill for settling the accounts between the United States and the individual States, without amendment.

## REGISTERING VESSELS.

The House again went into a Committee of the whole on the bill for registering and clearing vessels, and for regulating the coasting trade; and having gone through it, reported the bill with the proposed amendments. The House agreed to some of the amendments, negatived others, and made some additional ones. The House adjourned before the discussion on the bill was closed.

FRIDAY, July 31.

Mr. PAGE, from the committee to whom the petitions of the Baron de Glaubeck were referred, made a report, which was ordered to lie on the table.

Mr. SCOTT, from the committee appointed for the purpose, brought in a bill for establishing a Land Office for the Western Territory, which was read and laid on the table.

On motion,

*Resolved*, That a standing committee be appointed to examine the enrolled bills, and to present the same to the President for his approbation and signature.

Messrs. WHITE and PARTRIDGE were accordingly appointed.

Mr. WHITE, of the committee appointed to examine into the measures taken by Congress and the State of Virginia, respecting the lands reserved for the use of the officers and soldiers of said State, &c. brought in a report, which was read and laid on the table.

The House then resumed the consideration of the amendments agreed upon in Committee of the whole, to the bill for registering and clearing vessels; which being finished, the bill was ordered to be engrossed for a third reading on Monday next.

A message from the Senate informed the House that they had passed the bill for establishing the Treasury Department, with amendments; to which they desired the concurrence of the House.

Mr. SEDGWICK, from the committee appointed for the purpose, brought in a bill to provide for the safe keeping of the acts, records, and great seal of the United States, for the publication, preservation, and authentication of the acts of Congress, &c.; which was read and laid on the table.

MONDAY, August 3.

A message from the Senate informed the House that they had passed the bill for the establishment of light-houses, beacons, and buoys, with several amendments; to which they desired the concurrence of this House.

The amendments of the Senate were immediately considered and agreed to.

The engrossed bill for regulating the coasting trade was read a third time; and, on motion, recommitted to a Committee of the whole, to be taken up to-morrow.

The bill for establishing a Land Office for the Western Territory was read a second time, and made the order of the day for Thursday.

The bill to provide for the safe keeping of the acts, records, great seal, &c. was read, and made the order of the day for Friday.

The report of the committee on amendments to the constitution was, on motion of Mr. MADISON, made the order of the day for Wednesday sennight.

Mr. BENSON made a motion as follows:

*Resolved*, That a committee be appointed to join with a committee of the Senate to be appointed for the purpose, to consider of and report when it will be convenient and proper that an adjournment of the present session of Congress should take place; and to consider and report such business now before Congress, necessary to be finished before the ad-

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jourment, and such as may be conveniently postponed to the next session; and also to consider and report such matters not now before Congress, but which it will be necessary should be considered and determined by Congress before an adjournment.

The bill for establishing the Treasury Department, with the amendments proposed by the Senate, being read, were acceded to in part; the consideration of two articles was postponed till to-morrow.

The bill for allowing compensation for their services to the President and Vice President of the United States, was taken up; and on motion of Mr. SMITH, of South Carolina, a clause was added to the bill, by which the President is to have the use of the furniture and other effects now in his possession, belonging to the United States.

The bill was then ordered to be engrossed for a third reading to-morrow, and then the House adjourned.

TUESDAY, August 4.

A petition of sundry freeholders of the county of Cumberland, in the State of Pennsylvania, whose names were thereunto subscribed, was presented to the House, and read, praying that the District and Circuit Judicial Courts of the United States, to be established in the said State, may be fixed in some central place therein, convenient to the citizens thereof at large.

Also, a petition of Christopher Collis, of the city of New York, praying that an exclusive privilege may be granted him in the benefits of an invention which he has reduced to practice, for counting, with the utmost precision, the number of revolutions or vibrations of any wheel, or other part of any mechanical engine or machine.

An engrossed bill for making compensation to the President and Vice President of the United States, was read the third time, and passed, and sent to the Senate for their concurrence.

#### COMPENSATION OF MEMBERS.

Mr. BURKE, from the committee appointed for the purpose, brought in a bill for allowing a compensation to the members of both Houses, and to their respective officers; this bill provides that the compensation shall be as follows, viz.

To each member of the Senate and House, six dollars per day.

Speaker of the House, twelve dollars per day.

To the Secretary of the Senate, and Clerk of the House, each fifteen hundred dollars a year, and two dollars a day each during the session of the Legislature; one principal clerk to each, at three dollars a day during the session; one engrossing clerk to each, at two dollars a day during the session.

Serjeant-at-arms, three dollars a day during the session.

Door-keeper to the House and Senate, each seven hundred and thirty dollars a year.

Assistant door-keepers, during the session,

one dollar and fifty cents a day each. This bill was laid on the table.

The House, according to the order of the day, resolved itself into a Committee of the whole House, on the bill for registering and clearing vessels, and regulating the coasting trade. After some time being spent therein, and going through the bill,

The Chairman reported, that the committee had, according to order, had the said bill under consideration, and gone through the same, and had made several amendments thereto, which he delivered in at the clerk's table, where the same were twice read, and agreed to by the House.

Mr. BENSON'S motion of yesterday, respecting the adjournment, was agreed to by the House, and a committee appointed for the purpose, consisting of Messrs. WADSWORTH, CARROLL, and HARTLEY.

The House resumed the consideration of the amendments proposed by the Senate to the bill to establish the Treasury Department. Whereupon,

*Resolved*, That this House doth agree to so much of the eighth amendment, as proposes to strike out these words in the seventh clause in the bill, to wit, "The assistant to the Secretary of the Treasury shall be appointed by the President;" and doth disagree to such other part of the said amendment, as proposes to strike out the residue of the clause.

After which the House adjourned.

WEDNESDAY, August 5.

A message from the Senate informed the House that they had passed an act to establish an Executive Department, to be denominated the Department of War, with several amendments, to which they desired the concurrence of the House. That they have also passed the bill to provide for the government of the Territory northwest of the river Ohio, with several amendments, to which they desired the concurrence of this House.

The House proceeded to consider the amendments to the said bills, and they were severally agreed to.

*Resolved*, That a committee be appointed to bring in a bill to establish the salaries of the Executive Officers of Government, with their assistants and clerks.

Whereupon Messrs. FITZSIMONS, LAWRENCE, and GRIFFIN were appointed.

An engrossed bill for registering and clearing vessels was read a third time and passed, and sent to the Senate for their concurrence.

The House then resolved itself into a Committee of the whole, on the bill for allowing compensation to the members of the Senate and the House of Representatives of the United States, and to the officers of both Houses, Mr. BOURNOR in the chair.

Mr. GOODRICE moved to strike out six dollars, as the pay of each member per diem.

Mr. CARROLL inquired, if it was not out of



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order for the committee to alter principles, after they had been settled by the House.

Mr. PAGE wanted to know whether the gentleman meant to increase or diminish the sum, for he presumed it was not intended to be left a blank altogether; but he hoped the House would do neither. It had been settled, after mature deliberation, at six dollars; the House certainly thought that sum enough, and if it was more, that it would be too much; he was satisfied with this determination, and would adhere to it. Perhaps the gentleman meant to strike out the six dollars, in order to make a discrimination between the members of this House and the Senate; if so, he had better move to increase the compensation of the Senators, and here he would second him, because he thought their services required more.

He would once more mention his fears relative to a small sum. He dreaded the abuse of economy, and was suspicious that a parsimonious provision, would throw the Government into the hands of bad men, by which the people might lose every thing they now held dear. He thought few would serve for a smaller sum than he would, and he was confident the allowance was as moderate as any man could expect. Gentlemen who come a great distance, are put to considerable expense, and their domestic arrangements destroyed: instead of laying up money by their attendance here, it was almost certain they would spend part of their private estates.

If it is meant that the republic should be provided with good and wholesome laws, a proper provision should be made, to bring into the councils of the Union such men as are qualified to secure them well; it is not to be expected that the spirit of patriotism will lead a man into the perpetual habit of making such exertions and sacrifices as are too often necessary in the hour of danger. No man ought to be called into the services of his country, and receive less than will defray the expenses he incurs by performing his duty. If he does, the public affairs, in the time of tranquillity, will get exclusively into the hands of nabobs and aspiring men, who will lay the foundation of aristocracy, and reduce their equals to the capacity of menial servants or slaves.

Mr. SEDGWICK seconded the motion for striking out. He had endeavored to view this subject impartially, uninfluenced by any local considerations or circumstances; and under these impressions, he was led to believe, from all the information he had received, whether from abroad, or from an examination in his own mind, of the effects it would produce, that it would be expedient to establish the compensation at a lower sum. He really did not see any solid ground for the apprehensions which his worthy friend from Virginia (Mr. PAGE) had discovered; he had heard it often said, that if salaries and allowances to public officers were small, you would not be able to command the services of good men; but it was contradicted

by the fact. He would instance the late appointments, and ask gentlemen, whether they conceived better men could have been procured, if the compensation had been doubled? If it was fair to reason by experience and analogy, he should conclude there would be no difficulty in procuring good and respectable men, to serve in this House, at a less rate than six dollars per day. He had never yet observed that men of small property shrunk from the expense of serving in the councils of their country.

He thought the practice of the States was opposed to so high a compensation; many of the State Legislatures allowed their members a dollar and ten shillings a day, and yet they were served by good men.

He had been informed that it was thought by men of sense and intelligence, that although six dollars might not be too great an allowance for the services of the members of this House, yet, considering the present circumstances of the people, it would be good policy to reduce the same. He inclined to this opinion himself.

Impressed with these ideas, and knowing that it was generally the opinion of the people, that six dollars was more than a moderate compensation to the members of this House, he should support the motion for striking out with a view to reduce the sum.

Mr. VINING said, the gentleman from Maryland (Mr. CARROLL) had taken the subject up in a proper point of view, by inquiring into the point of order. He begged gentlemen to consider the manner in which the subject had been discussed already—twice in the House, and twice in committee; every decision had been the same; why should the point so often determined, be again agitated? It is contrary to all Parliamentary proceeding, and the House will never know when principles are settled.

He was certain that six dollars was but a moderate compensation, if a member is to reside at the metropolis of the United States. He would admit that they could live for less, in some more central part of the country; but the gentlemen from the eastward should recollect that a small allowance would be an argument for removing Congress from this city, and when that time arrived, he should consent to a lower sum, but not till then.

Mr. FITZSIMONS did not expect to hear the subject discussed again; he thought it unnecessary, because he believed every gentleman would decide more upon his own feelings, than upon the arguments that could be adduced; he would however just remind the committee, that six dollars was about the average of what the members from the several States had under the late confederation.

Mr. SEDGWICK.—According to the observation made by the gentleman from Pennsylvania, it will be deemed insolent to reason on this subject: what I offered before, I brought forward with candor; but shall we be precluded from debate, because a subject has been once discussed? Sir, when I moved, some days ago, to

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reduce the pay of the members to five dollars, I was rather indifferent about it; but since then, I have been so well convinced of the necessity there is for such a measure, that I cannot decline pressing it once more upon the committee.

Mr. STONE thought the public mind would not be much influenced by the trifling difference between five and six dollars. They pay greater regard to the decisions of the House, on more important subjects. The gentleman from Massachusetts says his correspondents inform him, that the public mind is agitated on this subject; if we are to judge what is the state of the public mind from what our friends say, I should be apt to think the public mind quite unconcerned on the present question, for among all my correspondents, not one has deigned to notice it.

The question was now taken on striking out, and there appeared sixteen in favor of it, and thirty-five against it; so the motion passed in the negative.

Mr. MADISON renewed the motion for making a difference in the pay of the members of the Senate, and House of Representatives, which was also lost.

Mr. GOODRUE moved to strike out twelve dollars, the pay assigned the Speaker, and insert ten.

Mr. PAGE hoped his motion would share the fate of the two last; he was certain that twelve dollars was not more than a compensation for the Speaker's services; three times the sum would not induce him to accept such a situation.

Mr. BURKE was against the motion, because he thought that twelve dollars was not a reward for the Speaker's labor. The Speaker of the House of Commons in England, has an annual salary of £8000 sterling.

Mr. CARROLL thought the Chair of the House of Representatives was one of the most important and dignified offices under the Government, and as such ought to be provided for.

This motion was lost by a great majority.

The committee rose and reported progress.

THURSDAY, August 6.

CONGRESS LIBRARY.

Mr. GERRY moved that a committee be appointed to report a catalogue of books necessary for the use of Congress, with an estimate of the expense, and the best mode of procuring them.—Ordered to lie on the table.

A message from the Senate informed the House, that they insisted on the amendment to the Treasury bill, respecting the removability of the Secretary by the President. Also, that they had agreed to the resolution of the House, for appointing a committee to report what business ought to be finished previous to the adjournment, and appointed Messrs. STRONG, ELSWORTH, and CARROLL on their part.

#### COMPENSATION OF MEMBERS.

The House then again went into a Committee of the whole, on the bill for allowing a compensation to the members of Congress; and af-

ter some time spent therein, the committee rose and reported the bill as amended: then the House proceeded to consider the same.

Mr. THATCHER moved to insert five dollars instead of six, as the pay of the members.

Mr. PARTRIDGE observed, that money was more valuable now than it had been some years past; if, therefore, six dollars was the average of what the delegates received heretofore, five dollars was now equal to that sum. In short, he was convinced that six dollars was too much, and in justice to his constituents, and his own conscience, he would vote against it, and perpetuate his vote by calling the yeas and nays upon the question.

Mr. GERRY.—I was not present when this subject was last before the House, therefore I cannot say what was understood on this point; but I have seen some account of the debate in the papers, from which I am led to believe, that gentlemen view this matter in a very narrow point of light. It appears to me a question, in which one's popularity is more concerned than any thing else. Gentlemen, perhaps, suppose that by voting for five instead of six dollars, they will establish such a character for economy and patriotism, as will redound to their honor; but I can easily conceive, that men of knowledge and sentiment, yes, our constituents in general, will discover, in a glaring light, the ruinous consequences of such a measure in a very short period. The difference of pay, as it now stands in the bill, and what my colleague has moved for, is one dollar a day, and on this important question the yeas and nays are to be called. For my part, I shall deliver my sentiments freely; I am willing to leave the question to the people to decide; I care not about the pay, and I can assure them I never wish to have a seat in this House again: but I wish to guard against the subversion of the public liberty—against the introduction of pensions—against exposing the Legislature to corruption.

I would have gentlemen consider the principles upon which they are to pay the President, their Judges, and themselves; the constitution says, the members of this House, and the Senate, shall receive a compensation for their services, to be ascertained by law, and paid out of the Treasury of the United States. The President shall receive, at stated times, a compensation for his services, neither to be increased nor diminished; the Judges shall, at stated times, receive for their services a compensation, not to be diminished during their continuance in office; hence it appears, that the provision for the three branches is to be made on the same principle, namely, a compensation for their services. Now, though it is certainly a little embarrassing that we should have to estimate the value of our own services, yet we are bound to do it, and that upon a fixed principle. It has been said, that the Parliament of Britain receive no pay. This may be the case, but if they examine back, they will find that pay, of a mark per day, was regularly established for them. If



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we consider the difference of the value of money two or three centuries ago, we shall find this no inconsiderable allowance. But the policy of the British ministry has been, of late, to extend the influence of the Crown; the pay of members has dropped into disuse; but every one knows by what means a majority in Parliament is obtained and secured. Now, such is the extent of these means, that I venture to say, two important members of the House of Commons receive more per annum than the whole compensation given to the members of both Houses of Congress. I leave it to the world to judge, whether the people are likely to be better served by men who receive their wages of the Monarch, and who own themselves the servants of the Crown, or by those who are immediately paid by and dependent upon themselves. While Britain had funds enough to support this plan, they did tolerably well; but when the evil extended itself, and they feared they could no longer continue it without having recourse to other means, they bethought themselves of unconstitutional ones; they were desirous of obtaining a revenue out of this country, and placing upon our establishment men whom they could not provide for at home. This cause lost them America, and this cause will lose them every dependency, where they attempt to play the like game.

From this view, the importance of an independent Legislature may be seen. Will gentlemen then say, that to gratify a thoughtless regard for economy, they will risk the most invaluable part of the Government? If gentlemen say it is justice to their constituents, I am willing to appeal to their tribunal; let them know the reason upon which we act, and I will abide by their determination; but I am against being influenced by an apprehension that the people will disapprove our conduct. I am not afraid of being left out, even if it were thought a disgrace to be left out. I would risk that disgrace rather than agree to an establishment which I am convinced would end in the ruin of the liberties of my fellow-citizens. It would give my heart more satisfaction to fall the victim of popular resentment, than to establish my popularity at the expense of their dearest interest.

As I mentioned before, the principle upon which we fix our own pay must go through the other branches of the Government. Your President ought to be retrenched to 16 or 18,000 dollars; your judges must be kept poor; and I leave gentlemen to consider the happy consequences arising from a dependent and corrupt Judiciary. Your Legislature may be corrupt, and your Executive aspiring; but a firm, independent Judiciary will stop the course of devastation, at least it will shield individuals from rapine and injustice; but remove this security, and tyranny and oppression will rush forward as a flood, and overwhelm the country.

It has been said, that the proposed compensation bears no proportion to the pay of the members of the State Legislatures; let me ask, do

members of the State Legislatures forego their business? Do they leave their State and relinquish their occupations? Does the lawyer neglect his client? Does the merchant forego his commerce, or the farmer his agriculture? No, sir, the short period they are in session, and the opportunity of being in the vicinity affords them of going home, even during their sitting, enables them to pursue their other avocations, while performing their duties in the Legislature. But are not gentlemen who come from the most distant parts of the Union, compelled to relinquish every thing to attend here? The representation from the States is so small, that a member can be ill spared at any time; his absence must give him pain, when even that absence is necessary, but cannot be often allowed. In short, I would have the allowance such, as to secure the services of men of abilities in every rank of life; or if that cannot be obtained, I would have all that part of the bill struck out, which relates to a compensation for the services of the members of this House.

Mr. PAGE said, if gentlemen were satisfied that five dollars per day was enough to compensate them and defray their expenses, because they resided in a part of the Union where every thing was to be procured so much cheaper, they might receive that sum and leave the residue in the Treasury; by this means they would demonstrate their love of economy and disinterestedness.

Mr. VINING thought gentlemen who were satisfied with four or five dollars, might move to amend the clause, so as to make it read "not exceeding six dollars per day," and then they might charge as much less as they deemed prudent.

Mr. BOUDINOT said, that whatever measures he supported, he did it upon principle, not from a desire of acquiring popularity; he was satisfied that six dollars per day was not extravagant compensation, but considering the situation of the country, and the delicacy of their own situation, he would vote for five dollars, and he thought it sufficient to secure men of ability. He asked the gentleman from Massachusetts (Mr. GERRY) if he expected the paltry consideration of getting a dollar a day more, was to induce men of abilities and integrity to come forward and render their country their services?

He admitted that many gentlemen would find it difficult to bear all their expenses with five dollars a day; but the compensation could not be on a principle of discrimination, and therefore the House could not make particular provision for such gentlemen. Others might think a less sum sufficient, but no discrimination could here take place; it was therefore necessary to accommodate, and upon this principle he hoped the House would agree to five dollars per day; nor would this be any variation from the principle established by the committee who reported the bill. They had taken the pay of the delegates to the late Congress, and struck an average, which was found to be about five dollars and a half; they had reported six, but from

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[August 7, 1789.]

the principles he had before mentioned, he thought it better to agree to five.

Mr. GERRY.—The gentleman from Jersey, who was last up, says he does not think six dollars per day more than sufficient; but that he will, from a principle of delicacy, vote for five. I am as great a friend to delicacy as any man, but I would not sacrifice essentials to a false delicacy. It seems, from such sentiments, as if we were afraid to administer a constitution which we are bound to administer. How are those sentiments reconcilable to the oath we have taken? The constitution requires that we shall, by law, compensate the services of the members of both Houses.

It has been said, that money is now more valuable than it was a few years since. I admit the fact, sir, but four dollars per day was better under the old plan of Government than six or eight under this, because a delegate was then engaged for the whole year, but now he is to attend at intervals. Some members were continued several years successively, and consequently found it more advantageous. But this mode of reasoning is fallacious; the question ought to be determined upon its own merits. But if gentlemen are for sacrificing justice and propriety to delicacy, or any other motive, let them come forward and agree to what I mentioned before; let them strike out all that relates to their own compensation; they are called upon by their own arguments to do this.

Mr. SEDGWICK did not rise to speak to the question, but merely to reply to some observations that have fallen from the gentlemen who opposed the present motion, particularly his colleague. The want of candor and liberality might render gentlemen unpleasant in their situation; but the consequences arising from such causes, were often still more unpleasant. His colleague had insinuated, in a pointed manner, that the gentlemen who were in favor of a reduction, were actuated by motives not only improper and unworthy of a man of character, but such as appeared base to his mind. It was said, that those who proposed this reduction, did it merely to court popularity. Whether the gentleman, his colleague, who brought forward the motion to-day, sacrificed more at that shrine than his colleague who had opposed it, he left to those to determine who noticed their conduct; but he believed they could never be charged with such meanness. For his own part, if he had sacrificed in this way, as his conduct had always been consistent with his sentiments, it must have been known, and his character would long ere this have been blasted in the manner it would have justly deserved. If he had done it heretofore, he hoped the stigma would not be affixed upon him, for a conduct founded upon the solid and substantial reasons he had advanced when the subject was last before the House.

Mr. BOUDINOT.—The gentleman from Massachusetts makes me say, that six dollars a day is not too much. I said it was not extrava-

gant, but more than I thought was proper upon due consideration of the circumstances of this country. This is still my opinion, and upon it I shall ground my vote. I believe no gentleman in this House regards his popularity, when set in competition with his duty; my conduct has ever been open, and I leave the world to judge from that what are my principles. I shall therefore take no further notice of what has been said on that subject, but conclude with wishing, for the honor of the House, and the dignity of the gentlemen, that all our debates may be conducted with candor and moderation.

Mr. AMES wished the call for the yeas and nays was withdrawn; because he thought they lost their usefulness by a too frequent use. He was in favor of the motion, but he did not wish to have his name entered on the minutes on that account.

Mr. PARTRIDGE said, it was well known he never courted popularity; he never sought a seat in this House, or any other public body; but he insisted upon this right, as a member, to call for the yeas and nays, when he thought the public interest might be benefited by it; however, as the bill was not to be finished to-day, he would waive that call.

The question was taken on Mr. GOODHUE'S motion, and passed in the negative, by a large majority.

The bill was ordered to be engrossed, and the House adjourned.

## FRIDAY, August 7.

A petition of John White, late a commissioner for settling the accounts between the United States and the States of Pennsylvania, Delaware, and Maryland, was presented to the House and read, praying that he may receive compensation for his services in that character, which, from public considerations, he was induced to render beyond the time limited by an ordinance of the late Congress.

*Ordered*, That the said petition be referred to MESSRS. SENEY, VINING, and HEISTER, that they do examine the matter thereof, and report the same with their opinion thereupon to the House.

On motion,

*Ordered*, That a committee be appointed, to bring in a bill or bills, for the further encouragement of the commerce and navigation of the United States.

And a committee was appointed, consisting of MESSRS. GERRY, TRUMBULL, and BURKE.

The following message was received from the President of the United States, by General Knox, who delivered therewith sundry statements and papers relating to same:

*Gentlemen of the House of Representatives,*

The business which has been under the consideration of Congress has been of so much importance, that I was unwilling to draw their attention from it to any other subject; but the disputes which exist be-



# HISTORY

OF

## THE PROCEEDINGS AND DEBATES

OF

### THE SENATE OF THE UNITED STATES,

AT THE SECOND SESSION OF THE FIRST CONGRESS, BEGUN AT THE CITY

OF NEW YORK, JANUARY 4, 1790.

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[That no debate appears in the proceedings of the Senate, is already accounted for in a note at the commencement of the Journal of the First Session. It is for this good reason, that, until its Session in 1794, the Senate sat with *closed doors*.]

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MONDAY, January 4, 1790.

The following members of the Senate assembled:

From New Hampshire, JOHN LANGDON and PAINE WINGATE.

From Massachusetts, CALEB STRONG and TRISTRAM DALTON.

From Connecticut, WILLIAM S. JOHNSON.

From New York, RUFUS KING and PHILIP SCHUYLER.

From South Carolina, RALPH IZARD and PIERCE BUTLER.

From Georgia, WILLIAM FEW.

A quorum of members not being present, they adjourned till to-morrow.

TUESDAY, January 5.

JOHN HENRY, from Maryland, in addition to the members assembled yesterday, attended; but not being a quorum, they adjourned.

WEDNESDAY, January 6.

WILLIAM MACLAY, from Pennsylvania, attended; a quorum of the members of the Senate were present, and the Secretary was directed to inform the House of Representatives that a quorum of the Senate have assembled, and are ready to proceed to business.

*Ordered*, That Messrs. STRONG and IZARD be a committee on the part of the Senate, with such committee as the House of Representatives may appoint on their part, to inform the President of the United States that a quorum of the two Houses is assembled, and will be

ready in the Senate Chamber, at such time as the President may appoint, to receive any communications he may be pleased to make

THURSDAY, January 7.

OLIVER ELLSWORTH, of Connecticut, and WILLIAM PATERSON, from New Jersey, attended.

A message from the House of Representatives informed the Senate that they have resolved that two Chaplains, of different denominations, be appointed to Congress for the present session, one by each House, who shall interchange weekly.

Mr. STRONG, on behalf of the joint committee, reported to the Senate, that they had waited on the President of the United States, agreeably to the order of both Houses, and that he informed the committee that he would meet the two Houses in the Senate Chamber to-morrow at 11 o'clock.

The Senate proceeded to consider the resolve of the House of Representatives, of this day, relative to the appointment of Chaplains; and,

*Resolved*, That the Senate concur therein; and that the Right Reverend Doctor Samuel Provost be appointed for the present session, on the part of the Senate.

FRIDAY, January 8.

*Ordered*, That the House of Representatives be informed that the Senate are ready to meet them in the Senate Chamber, to receive any communication the President of the United States may be pleased to make to the two

SENATE.]

Proceedings.

[MAY 14, 1890.]

first day of January next, there shall be held annually, three sessions of the district court for the district of Kentucky, and no more; to commence on the second Mondays in each of the months of April, August, and November; any law to the contrary notwithstanding.

*Ordered*, That a message be sent to the House of Representatives accordingly.

The Senate proceeded to consider the report of the committee appointed the 28th of April, to consider what provisions will be proper for Congress to make, in the present session, respecting the State of Rhode Island; whereupon,

*Resolved*, That all commercial intercourse between the United States and the State of Rhode Island, from and after the first day of July next, be prohibited, under suitable penalties; and that the President of the United States be authorized to demand of the State of Rhode Island \_\_\_\_\_ dollars, to be paid into the Treasury of the United States by the \_\_\_\_\_ day of \_\_\_\_\_ next; which shall be credited to the said State, in account with the United States; and that a bill or bills be brought in for those purposes.

*Ordered*, That the committee who brought in the above report prepare and report a bill accordingly.

#### WEDNESDAY, May 12.

A message from the House of Representatives informed the Senate, that they have proceeded to consider such of their amendments to the bill sent from the Senate for giving effect to the act therein mentioned, in respect to the State of North Carolina, and to amend the said act, as were disagreed to by the Senate, and have

*Resolved*, That a conference be desired with the Senate, on the subject-matter of the said amendments; and that MESSRS. WHITE, STEELE, FOSTER, LIVERMORE, and WILLIAMSON, be appointed managers at the same, on the part of House of Representatives.

The Senate proceeded to consider the last recited message; and

*Resolved*, That they concur in the proposed conference, that MESSRS. JOHNSTON, LANGDON, HAWKINS, KING, and BUTLER, be managers thereof, on the part of the Senate.

*Ordered*, That a message be sent to the House of Representatives accordingly.

Mr. REED reported, from the committee appointed May the 4th, on the bill for the encouragement of learning, by securing the copies of maps, charts, books, and other writings, to the authors and proprietors of such copies, during the times therein mentioned; the consideration of which report was postponed.

#### THURSDAY, May 13.

The Senate proceeded to consider the report of the committee on the bill for the encouragement of learning, by securing the copies of maps, charts, books, and other writings, to the

authors and proprietors of such copies, during the times therein mentioned; which report was agreed to as amendments to the bill.

*Ordered*, That to-morrow be assigned for the third reading of this bill.

Mr. MORRIS, from the committee appointed the 28th of April, to consider what provisions will be proper for Congress to make, in the present session, respecting the State of Rhode Island, reported a bill on that subject, which was read the first time.

*Ordered*, That this bill have the second reading to-morrow.

Mr. ELLSWORTH reported, from the committee appointed May 3d, to consider and report their opinion on the question, when, according to the constitution, the terms for which the President, Vice President, Senators, and Representatives, have been respectively chosen, shall be deemed to have commenced; and, also, to consider of, and report their opinion on, such other matters as they shall conceive have relation to this question.

*Ordered*, That this report lie for consideration.

#### FRIDAY, May 14.

Agreeably to the order of the day, the Senate proceeded to the third reading of the bill for the encouragement of learning, by securing the copies of maps, charts, books, and other writings, to the authors and proprietors of such copies, during the times therein mentioned.

*Resolved*, That this bill do pass, with amendments.

*Ordered*, That a message be sent to the House of Representatives, to request their concurrence in the amendments.

The Senate proceeded to consider the report of the joint committee, appointed the 28th of April, which is as follows:

The committee of Senate, to join with a committee appointed by the House of Representatives, to consider and report their opinion on the question, when, according to the Constitution, the terms for which the President, Vice President, Senators, and Representatives, have been respectively chosen, shall be deemed to have commenced; and, also, to consider of, and report their opinion on, such other matters as they should conceive to have relation to this question, report, as the opinion of the said joint committee:

That the terms for which the President, Vice President, Senators, and Representatives, of the United States, were respectively chosen, did, according to the constitution, commence on the 4th day of March, 1789; and so the Senators of the first class, and the Representatives, will not, according to the Constitution, be entitled, by virtue of the same election by which they hold seats in the present Congress, to seats in the next Congress, which will be assembled after the 3d day of March, 1791; and further, that, whenever a vacancy shall happen in the Senate or House of Representatives, and an election to fill such vacancy, the person elected will not, according to the Constitution, be entitled, by virtue of such election, to hold a seat beyond the time for which the Senator or Representative in whose stead such per-

# HISTORY

OF

## THE PROCEEDINGS AND DEBATES

OF THE

### HOUSE OF REPRESENTATIVES OF THE UNITED STATES,

SECOND SESSION OF THE FIRST CONGRESS, HELD AT THE CITY OF NEW YORK,

JANUARY 4, 1790.

#### THURSDAY, January 4.

THE following is a list of the Members composing the House of Representatives:

New Hampshire—NICHOLAS GILMAN, SAMUEL LIVERMORE, and ABIEL FOSTER.

Massachusetts—FISHER AMES, ELBRIDGE GERRY, BENJAMIN GOODHUE, JONATHAN GROUT, GEORGE LEONARD, GEORGE PARTRIDGE, GEORGE THATCHER, and THEODORE SEDGWICK.

Connecticut—BENJAMIN HUNTINGTON, ROGER SHERMAN, JONATHAN STURGIS, JONATHAN TRUMBULL, and JEREMIAH WADSWORTH.

New York—EGBERT BENSON, WILLIAM FLOYD, JOHN HATHORN, JEREMIAH VAN RENSSELAER, JOHN LAWRENCE, and PETER SYLVESTER.

New Jersey—ELLAS BOUDINOT, LAMBERT CADWALADER, JAMES SCHUREMAN, and THOMAS SINICKSON.

Pennsylvania—GEORGE CLYMER, THOMAS FITZSIMONS, THOMAS HARTLEY, DANIEL HEISTER, F. A. MUHLENBERG, *Speaker*, PETER MURLENBERG, THOMAS SCOTT, and HENRY WYNKOOP.

Delaware—JOHN VINING.

Maryland—DANIEL CARROLL, BENJAMIN CONTEE, GEORGE GALE, JOSHUA SENEY, WILLIAM SMITH, and MICHAEL JENIFER STONE.

Virginia—THEOBORICK BLAND, JOHN BROWN, ISAAC COLES, SAMUEL GRIFFIN, RICHARD BLAND LEE, JAMES MADISON, JUN., ANDREW MOORE, JOHN PAGE, ALEXANDER WHITE, and JOSIAH PARKER.

South Carolina—EDANUS BURKE, DANIEL HUGER, WILLIAM SMITH, THOMAS SUMTER, and THOMAS TUDOR TUCKER.

Georgia—ABRAHAM BALDWIN, JAMES JACKSON, and GEORGE MATHews.

The *SPEAKER* and twenty-five other members, viz. Messrs. FOSTER, GILMAN, LIVERMORE, AMES, GERRY, GOODHUE, GROUT, PARTRIDGE, THATCHER, SHERMAN, BENSON, FLOYD, LAWRENCE, P. MUHLENBERG, SCOTT, SENEY, BROWN, COLES, GRIFFIN, WHITE, BURKE, HUGER, SMITH, (of S. C.), TUCKER, and BALDWIN, appeared and took their seats; but not being a quorum, they adjourned.

#### TUESDAY, January 5.

Mr. BOUDINOT took his seat.—No quorum.

#### WEDNESDAY, January 6.

Mr. SCHUREMAN, Mr. PAGE, and Mr. LEE took their seats.—No quorum.

#### THURSDAY, January 7.

JONATHAN STURGIS and JEREMIAH WADSWORTH, from Connecticut, JEREMIAH VAN RENSSELAER, from New York, DANIEL CARROLL, from Maryland, and GEORGE MATHews, from Georgia, appearing and taking their seats, a quorum of the whole House was present; of which the Senate were informed.

The *SPEAKER* laid before the House a letter from the President of the United States, of the 4th instant, requesting that when there shall be a sufficient number of the two Houses of Congress assembled to proceed to business, he may be informed of it; and, also, at what time and place it will be convenient for Congress that he should meet them, in order to make some oral communications at the commencement of their session; which was read, and ordered to lie on the table.

A message from the Senate informed the House, that they had appointed a committee on their part, jointly with such committee as shall be appointed on the part of the House, to wait on the President of the United States, and notify him that a quorum of the two Houses had assembled, and will be ready, in the Senate Chamber, at such time as he shall appoint, to receive any communications which he shall think proper to make.

Messrs. GILMAN, AMES, and SENEY, were then appointed a committee on the part of the House for the purpose expressed in the message from the Senate.

It was then ordered, That a committee be appointed to examine the Journal of the last session, and to report therefrom all such mat



JANUARY 11, 1790.]

Order of Business.

[H. OF R

were appointed to prepare and bring in the several bills following, to wit:

A bill to establish an uniform system on the subject of bankruptcies throughout the United States.

A bill for the further encouragement of the commerce and navigation in the United States.

A bill providing for the actual enumeration of the inhabitants of the United States.

Also, a bill providing a proper system of regulation for the militia of the United States:

Neither of which bills were reported during the session.

It also appears to your committee, that there were postponed by this House for further consideration until the present session, the several bills, to wit:

A bill to promote the progress of science and useful arts, by securing to authors and inventors the exclusive right to their respective writings and discoveries.

A bill for the establishment of hospitals, for the relief of sick and disabled seamen, and prescribing regulations for the harbors of the United States.

A bill concerning the importation of certain persons prior to the year 1808.

A bill to establish a land-office in and for the Western Territory. Also, a bill sent from the Senate, entitled "An act for the punishment of certain crimes against the United States."

That the bill, entitled "An act to establish the seat of Government of the United States," was postponed by the Senate, for the further consideration of an amendment proposed by this House, until the present session.

And lastly, That the report of the committee appointed to examine into the measures taken by Congress, and the State of Virginia, respecting lands reserved for the officers and soldiers of the said State, was postponed by this House for further consideration, until the present session.

#### ANSWER TO THE PRESIDENT'S SPEECH.

Mr. SMITH, (of South Carolina,) from the committee appointed for the purpose of preparing an address in answer to the President's speech, presented a report; which being read,

Mr. PAGE moved to go into a Committee of the whole on the same to-morrow, which was agreed to,

Mr. GOODHUE observed, that he was a member of the committee, appointed at the last session, to prepare a bill for taking the census, or enumeration of the inhabitants of the United States, and wished to know whether it was desired by the House that the committee should proceed on that business; if it was, it was necessary that the committee should be enlarged, in order to answer the object of their appointment effectually; but as that would be attended with some inconvenience, it would perhaps be best to discharge the old committee and appoint a new one, to consist of a member from each State; and in order to take the sense of the House, he would make that motion.

Mr. SMITH, (of South Carolina,) wished the gentleman to withdraw his motion, in order that the House might go into the consideration of the several important matters recommended to their attention in the President's speech, and

refer them respectively to committees. If the gentleman from Massachusetts would conform to this sentiment, he would move to go into a Committee of the whole for that purpose.

Mr. WHITE remarked, that the President's speech had already been referred to a Committee of the whole; it was therefore unnecessary to adopt the motion of the gentleman from South Carolina.

Mr. GOODHUE, however, agreed to suspend his motion until the House should decide upon Mr. SMITH's.

The question was then taken on Mr. SMITH's motion, and passed in the negative.

#### ON THE ORDER OF BUSINESS.

Mr. GOODHUE then stated to the House one object which he had in view in moving that the committee be dismissed, was to determine whether the business of last session should proceed from the stage in which it was left, or be taken up *de novo*.

Mr. LEE considered this as a question of some importance; but he did not hesitate to say that it was decided by the uniform practice of Parliament, and on long experience it was found to be attended with the least inconvenience to commence all their proceedings anew at the commencement of a new session; but as it was a question of order, he would refer the decision of it to the Chair.

Mr. SHERMAN thought it a question that ought to be decided by the joint resolution of both Houses.

Mr. PAGE was of opinion that each House ought to establish its own rules to govern its proceedings, and that as it was consistent with Parliamentary usage to commence *de novo* the proceedings of each session, it would be proper for the House to pursue a like line of conduct.

Mr. TUCKER said it was a question that deserved very serious consideration, because an act might be passed at this session with the consent of only one branch of the Legislature, provided it was determined that the business should progress from the state in which it was left last September. He alluded to the bill respecting crimes and punishments, assented to by the Senate, and sent to this House for concurrence at the last session, and also the bill to establish the seat of Government of the United States, which had passed this House, and lay before the Senate for their assent to a small amendment.

If, on this occasion, the two Houses should establish different rules, one might proceed to pass one of those laws, contrary to the sense of the other, which would induce a consequent embarrassment; to avoid this, he thought it best that both Houses should be consulted, and establish an uniform rule. But while he was urging these arguments, he did not mean to contend that this House was not left to its own discretion to establish such rules as the majority might think proper.

As the question had been left to the decision



H. OF R.]

*Public Credit.*

[FEBRUARY 25, 1790.]

Mr. MADISON had in view to allow claims already settled by the States a further time to be exhibited. Virginia had been abridged of some just claims, by the act of limitation; he wished, therefore, to permit them, and all others in a like situation, to be brought forward and credited on the same principles, as adopted by the old Congress.

He also thought that the assumption of the unpaid State debts was inseparably connected with those that were discharged by the States. If this is not done, what is the consequence? The citizens of a State will be burthened in proportion as their State has made exertions to discharge its obligations; for instance, if one State had paid the whole of her debt, and another paid none, if you assume the unpaid without the paid, the State which has already paid off what it owed will be burthened to pay the debts of the other. No doubt we shall be governed by principles of equity in making our final settlement; but, in the interim, we should sustain an unequal and unjust burthen.

Mr. SHERMAN.—The liquidation of accounts between the United States and the particular States, has been settled by the former Congress on the most mature deliberation, and fullest information, on principles, that it was supposed, would admit every proper charge; the Commissioners have authority to exercise their discretion on every claim that comes before them. He thought this sufficient, and was of opinion, that every claim, not allowed by them, should be lost, unless something very special was offered.

Mr. SEDGWICK was sorry to see any thing connected with the proposition, which he conceived ought to stand upon its own bottom: he had no objection to make the fullest provision for the speedy settlement of the accounts, if any thing further was necessary; but he thought it unadvisable to connect it with the proposition of assumption, because it might tend to embarrass that question. He would pledge himself to co-operate with the gentleman in effecting his object, in any other way.

Mr. MADISON was sorry that gentlemen considered it as an embarrassment. He had nothing of that kind in view: but he thought it essential, in order to secure justice to those States, in the situation he had before mentioned, that the plan should be enlarged, and modified, as he had suggested.

Mr. FITZSIMONS.—I am of opinion that the State debts ought to be assumed; but I look upon it to be immaterial, whether provision be at this time made or not, because the payment of interest thereupon is not intended to commence immediately.

The provision for the final settlement of accounts I deem perfectly consistent with the assumption, and I wish gentlemen not to show too much jealousy on that point; for I declare, for myself, I never would consent to the assumption, without I was satisfied that the accounts would be finally adjusted, and, in the

end, that complete justice would be done. I endeavored, when I was up before, to state the injury that must, in the interim, be felt by those States that have made the greatest exertion since the war to extinguish their debts; it is presumable that Massachusetts and Pennsylvania ought to have contributed to the expense of the late war in an equal ratio. The claim of Pennsylvania against the Union is as great as Massachusetts; she engaged to pay as much on the general account; but by her exertions, she has reduced her debt to less than two millions of dollars, while the State of Massachusetts still owes five millions, and upward: now so long as Pennsylvania shall continue, in consequence of the assumption, to bear the undue proportion she acquires, injustice will be done; if she was not soon to have credit for this, as well as all her other exertions, on an adjustment of the accounts, no member from that State could agree to the sacrifice.

The committee now rose. The House adjourned.

THURSDAY, February 25.

Mr. BOUDINOT, from the committee to whom the bill for securing the copy-right of books to authors and proprietors was re-committed, presented an amendatory bill for the encouragement of learning, by securing the copies of maps, charts, books and other writings, to the authors and proprietors, which was read the first time.

PUBLIC CREDIT.

The House again went into a committee on the report of the Secretary of the Treasury, Mr. BENSON in the chair.

Mr. MADISON'S amendment making provision for the final settlement of account between the States and the United States, being under consideration.

Mr. HUNTINGTON.—The resolution is intended to authorize the admission of the best evidence the case will admit. Every body knows that to be a common law rule, it is not necessary then to pass a statute for the purpose. If there is any object to which the amendment is meant to be directed, I presume it is to make provision in cases where there is not sufficient evidence to establish the claim, such as by the loss of vouchers in time of war, or other accidents. Now if vouchers are not produced, I presume the next best will be parole evidence; but as all accounts hitherto have been settled upon other kind of evidence, and perhaps, considerable sums, in some accounts, rejected for want of vouchers, it is probable a great degree of injustice will arise, or we shall be obliged to unhinge the whole of the settlements that have taken place. This ought to be carefully avoided; though, if there be any special cases, I shall have no objection to make special provision therefor.

Mr. WHITE said, he felt himself rather in a disagreeable situation when he rose to oppose a

FEBRUARY 25, 1790.]

*Public Credit.*

[H. OF R.]

proposition which was countenanced by so many respectable patrons. He thought the original proposition on the table would, however, be less exceptionable, by the adoption of the amendment proposed by his colleague (Mr. MADISON) because it would remove some of the difficulties that otherwise would result from it.

In stating his objections, he remarked, that if he understood the meaning and force of the proposition, it would have this effect; that the States who have made exertions, and nearly paid the whole of their proportion of their Federal debt, should, notwithstanding, contribute to the payment of the delinquencies of others. This appeared to him to be unjust. To have a right view of the matter, none of the States could properly be considered as creditors of the Union, unless they had contributed in a greater degree than was required of them, in proportion to their wealth and number of citizens. To illustrate this argument, he would suppose that the proportion of the expense for Massachusetts and Virginia, should each be ten millions; then, if Massachusetts shall advance fifteen millions, she would have a credit for five millions; whereas, if Virginia should have advanced no more than ten millions, she would have paid no more than her just proportion, and could have no demand on the Union. Again, if she advanced no more than eight millions, she would owe two millions, which Congress could not assume to pay without injury to the other. He, therefore, thought it just that whatever sum might appear on the liquidation of the account, to have been advanced by a State beyond its equal proportion, that that should be assumed by the Union, and no other. He had also an objection to the amendment, by which a door was to be opened for all claims; this might induce the States to bring forward claims whereby the public debt might be unduly increased; for the States generally thinking themselves creditors, it would create a jealousy, and there would be a general searching for and admitting of claims, to the great injury of the Union; this inconvenience, he thought, would result.

Other inconveniences might proceed from this circumstance. In some of the States the creditors might refuse to accept the proposal; he thought this would be the case in Virginia, because, in that State, their debts were well funded at six per cent. and the interest regularly paid. Supposing this event to take place, what would be the consequence? The State of Virginia would have to levy taxes to pay this interest, and at the same time to contribute to pay that of other States; difficulties might arise on this ground that to him appeared serious.

It seemed to be the intention of the committee to fund all the debt, and to make no arrangement for the discharge thereof; this, he said, he could not approve of. Perpetuating a public debt he did not conceive advantageous to any country.

Gentlemen appear dazzled with the splendor

of Great Britain, supposing that her prosperity is owing to her debts; but the reverse is the case, it was her peculiar circumstances that enabled her to support her debts; her wealth and power were owing to the spirit and industry of her inhabitants; to her natural advantages of soil, climate, and situation; and to the great security of property under a free Constitution; that, however, were he an Englishman, he would tremble for the event; sure he was, that at some future period, the nation must sink under the weight of its debt, or it must be wiped out with a sponge to the ruin of thousands.

The same consequences might follow the perpetuation of the debt in these States, though the period might be more remote. If these States were left to themselves, they might pursue measures to extinguish the debts; this was an object desirable to be accomplished.

The State of Virginia, he knew, had extinguished more than two millions of dollars of her public debt; but Virginia was not alone, there were other States, he believed, that had also effected a considerable diminution of their debts.

It had been urged as an argument in favor of the measure, that unless these debts were assumed, that some of the States would be induced to lay excises, and thereby put it out of the power of the Government to raise money from that source; but the excise and impost would not do. No adequate provision for the payment of the interest could be drawn from these sources. The Secretary had proposed to raise the duty on various articles; but his calculations did not extend to a provision for the State debts, he had only contemplated those of the Union. How, then, are the State debts to be provided for? Would Congress levy a land tax? As to raising the imposts, it was a measure he dreaded; as the duties now stood, he believed there were no attempts to evade them by smuggling; but if they were raised, the reverse would take place; and if the people once became habituated to smuggling, it would be impossible, at any future day, to reform them, even by lowering the duties. With respect to direct taxes, he wished the committee to consider how that would be relished throughout the Union; he thought it would be contrary to the general sense of the people. When they accepted the Constitution, it is true, they knew it contained a power to levy taxes; but it was not expected that this power would be exercised in the present situation of the country. It would lessen the influence of the States, they would be reduced to a degree lower than they should be, while, at the same time, the General Government would be elevated on their ruin. This would be unjust and impolitic; the freedom and happiness of America depended essentially on the State Governments as the General Government, perhaps more so. It was an interference between a State and its citizens, and attaching them to the General Government without the consent of the State.



APRIL 30, 1790.]

*Sundry Bills.*

[H. OF R.]

Upon every gallon of those spirits, above proof, but not exceeding twenty per cent. according to the same hydrometer, thirteen cents.

Upon every gallon of those spirits more than twenty, and not more than forty per cent. above proof, according to the same hydrometer, seventeen cents.

Upon every gallon of those spirits, more than forty per cent. above proof, according to the same hydrometer, twenty-five cents.

And upon all stills employed in distilling spirits from materials of the growth or production of the United States, in any other place than a city, town, or village, there be paid the yearly sum of sixty cents for every gallon, English wine measure, of the capacity of each still, including its head; or — cents per gallon, for all spirits distilled from grain; or — cents per gallon for all spirits distilled from fruit."

*Ordered,* That a bill or bills be brought in pursuant to the said resolutions, and that Mr. FITZSIMONS, Mr. HUNTINGTON, Mr. JACKSON, Mr. CONTEE, and Mr. BLOODWORTH, do prepare and bring in the same.

WEDNESDAY, April 28.

#### FORFEITURES AND PENALTIES.

The House resolved itself into a Committee of the whole on the bill to provide for mitigating or remitting the forfeitures and penalties accruing under the Revenue laws. The Committee reported the bill to the House without amendment, and it was ordered to be engrossed for a third reading.

#### TERRITORY SOUTHWEST OF THE OHIO.

The House also went into a Committee on the bill from the Senate, for the government of the Territory of the United States south of the river Ohio. The Committee reported this bill without amendment, when the House amended it, and ordered it to be read a third time tomorrow.

#### AUTHENTICATION OF RECORDS.

Mr. PAGE, from the Committee appointed for the purpose, presented a bill to prescribe the mode in which the public acts, records, and judicial proceedings in each State shall be authenticated, which was twice read and committed.

#### INDIAN TRIBES.

The House resolved itself into a Committee on the bill to regulate trade and intercourse with the Indian tribes, Mr. LIVERMORE in the Chair. After some time spent thereon, the Committee rose and reported progress; when, on motion, the Committee of the whole was discharged from a further consideration thereof, and the bill was recommitted to MESSRS. WADSWORTH, BROWN, BOUDINOT, BURKE, BALDWIN, LIVERMORE, AMES, LAWRENCE, SCOTT, SMITH, (of Maryland,) SUMTER, and STEELE.

THURSDAY, April 29.

#### FORFEITURES AND PENALTIES.

The engrossed bill to provide for mitigating or remitting the forfeitures and penalties accruing under the Revenue laws, was read the third time and passed.

#### SUNDRY BILLS.

The bills sent from the Senate, for the government of the Territory of the United States south of the river Ohio, with amendments, and to regulate Processes in the Courts of the United States, were read the third time and passed.

A petition from the manufacturers of Cordage in the city of Philadelphia was presented, praying that a further duty may be imposed on the importation of foreign cordage. Referred.

*Ordered,* That a bill or bills be brought in to authorize the issuing certificates to a certain description of invalid Officers; and that Messrs. BURKE, CONTEE, and COLES prepare the same.

*Ordered,* That a bill be brought in for the government and regulation of seamen in the merchants' service; and that Messrs. FITZSIMONS, SMITH, of Maryland, and STURGES prepare the same.

#### FOREIGN INTERCOURSE.

The House proceeded to consider the report of the Committee of the whole, of yesterday, on the bill providing the means of intercourse between the United States and foreign nations; and the same being agreed to, the bill, as amended, was ordered to be engrossed for a third reading.

#### SALARIES OF EXECUTIVE OFFICERS.

The House went into Committees of the whole on the bill supplemental to the act for establishing the salaries of the Executive Officers of Government, with their assistants and Clerks; and on the bill for the encouragement of learning, by securing the copies of maps, charts, books, and other writings, to the authors and proprietors, Mr. SENEY in the Chair, and made several amendments in each; which being reported to the House, were severally concurred with, and the bills were ordered to be engrossed for a third reading.

FRIDAY, April 30.

#### SUNDRY BILLS.

The following engrossed bills received their third reading, and were passed, viz: The bill supplemental to the act for establishing the salaries of the Executive Officers of the Government, with their assistants and Clerks; the bill providing the means of intercourse between the United States and foreign nations; and the bill for the encouragement of learning, by securing the copies of maps, charts, books; and other writings to the authors and proprietors.

A petition from sundry inhabitants of Morris county, in New Jersey, was presented, praying that additional duties may be imposed on the importation of Copperas, Vitriol, Spanish Brown, Venetian Red, and Yellow Ochre. Referred.

The SPEAKER laid before the House the report of the Commissioners for settling accounts between the United States and individual States, in pursuance of an order of the House, which was laid on the table.

Mr. GERRY, from the Committee appointed for the purpose, presented a bill for finally ad-



H of R.]

Public Debt.

[JULY 23, 1790.]

amendments depending between the two Houses, on the bill providing for the settlement of accounts between the United States and the individual States, reported certain amendments that it would be proper to make in the said bill; the House took the report into consideration, and agreed to the same with a small alteration.

A message was received from the Senate, that they had passed the funding bill, with sundry amendments, which amendments were made the order of the day for to-morrow.

THURSDAY, July 22.  
COASTING TRADE.

Mr. GOODHUE, from the committee appointed for the purpose, presented a bill for registering ships or vessels, for regulating those employed in the coasting trade and fisheries, and for other purposes, which was twice read and committed.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, covering his report for a uniform system for the disposition of lands, the property of the United States, made pursuant to an order of the House of the 20th of January last, which were read and ordered to lie on the table.

GENERAL POST-OFFICE.

Mr. GERRY, from the Managers appointed on the part of this House to attend a conference with the Senate on the subject-matter of the amendments depending between the two Houses to the bill to establish the Post-office and post roads within the United States, made a report.

The first amendment of the Senate the committee on the part of the House did not agree to. This amendment was to invest the Post-master General with the power to establish the cross post roads. Mr. HARTLEY moved that the House should adhere to their disagreement; this was seconded by Mr. BLOODWORTH.

A considerable debate ensued on this motion, which was finally carried in the affirmative, the yeas and nays being as follows:

YEAS.—Messrs. Ashe, Baldwin, Bloodworth, Brown, Burke, Clymer, Coles, Contee, Fitzsimons, Floyd, Gale, Gerry, Griffin, Hartley, Heister, Huntington, Jackson, Livermore, Madison, Matthews, Muhlenberg, Page, Parker, Scott, Seney, Sevier, Sherman, Sylvester, Steele, Stone, Sturges, Sumter, Tucker, Vining, White.—35.

NAYS.—Messrs. Ames, Benson, Boudinot, Cadwallader, Foster, Gilman, Goodhue, Grout, Lawrence, Leonard, Partridge, Rensselaer, Schureman, Sedgwick, Smith, of Maryland, Smith, of South Carolina, Thatcher, Trumbull, Wadsworth, Wynkoop.—20.

The other amendments were agreed to.

The House then took up the amendments of the Senate to the funding bill, and made some progress therein.

FRIDAY, July 23.  
PUBLIC DEBT.

The House resumed the consideration of the amendments proposed by the Senate to the bill making provision for the debts of the United States.

On motion of Mr. GERRY, the interest on Indents was raised from three to four per cent. per annum.

The term of "ten years," the proposed period at which one-third of the principal was to be funded, was altered to seven years. These, with the rate of redemption, at eight dollars per annum on account of principal and interest, which the Senate proposed should be at seven dollars per annum, were all the alterations made by the House this day.

On the proposition for the assumption of the State debts being read,

Mr. JACKSON moved that the amendment of the Senate respecting the assumption of the State debts should be disagreed to.

In support of his motion, he said it is with great reluctance I rise again on the question before the House—a measure which has not only agitated this Legislature, but has more or less convulsed the whole people of the United States. It has elated speculators and State brokers, whilst it has depressed three-fourths of the honest part of the community. It has held out alluring prospects and fortunes to the one, whilst it has blasted and withered the just expectations of the other. It has, in short, been the centre-pin of visionary projectors and interested men, whilst its future effects have been viewed with horror by disinterested minds.

To give a history of this important question, (for important, however wicked, it certainly is,) would be to tax Congress with the most extreme inconsistencies. Repeatedly has the question been decided, and repeatedly negatived; and as the principle was first originated without reference, the same stubborn disposition is manifest, notwithstanding the repeated determinations of the House. The forms of Proteus have been assumed, and the forms of Proteus have been defeated here; but a new shape is not still wanting to aid the perseverance of the East. The Senate of the United States, a power not known to, nor chosen by, the people, have undertaken to load the citizens of the United States with an enormous debt.

I will not appeal to the passions; but I call on the House, as the Representatives of the people, as the guardians of their liberties, to resist this encroachment on their constitutional rights; they will expect it, and if the principle is established at present, there is no knowing to what length it may be carried in future. As well might the Senate, under color of an amendment, have inserted the whole funding system in an appropriation bill, as have inserted this new principle in the bill before the House. It may be advanced that it is no money bill, that there are no ways and means, no taxes or burthens imposed on the people. To interested men, and persons who would not look beyond the surface, this reasoning might appear just; but I would ask, if the taxes and burthens, the ways and means, must not follow—pass this

# HISTORY

OF

## THE PROCEEDINGS AND DEBATES

OF

### THE SENATE OF THE UNITED STATES,

AT THE THIRD SESSION OF THE FIRST CONGRESS, HELD AT PHILADELPHIA,

DECEMBER 6, 1790.

[That no debate appears in the proceedings of the Senate is already accounted for in a note at the commencement of the Journal of the First Session. It is for this good reason, that, until its Session in 1794, the Senate sat with *closed doors*.]

MONDAY, December 6, 1790.

The Senate assembled: present,

JOHN ADAMS, Vice President of the United States, and President of the Senate.

From New Hampshire, JOHN LANGDON and PAINE WINGATE;

From Massachusetts, TRISTRAM DALTON;

From Connecticut, OLIVER ELLSWORTH;

From New York, RUFUS KING;

From Pennsylvania, WILLIAM MACLAY and ROBERT MORRIS;

From Delaware, RICHARD BASSETT;

From North Carolina, SAMUEL JOHNSTON and BENJAMIN HAWKINS;

From South Carolina, PIERCE BUTLER and RALPH IZARD;

From Georgia, WILLIAM FEW.

PHILEMON DICKINSON, from the State of New Jersey, produced his credentials and took his seat in the Senate, in the place of Governor PATERSON.

JAMES MONROE, appointed by the Legislature of the State of Virginia, in the place of JOHN WALKER, who was appointed by the Executive of the said State in the room of WILLIAM GRAYSON, deceased, produced his credentials, and took his seat in the Senate.

The VICE PRESIDENT administered the oath required by law, to Mr. DICKINSON and Mr. MONROE, respectively.

A letter was read from WILLIAM PATERSON, Governor of the State of New Jersey, communicating the resignation of his appointment to be a Senator of the United States.

*Ordered*, That the Secretary inform the House of Representatives that a quorum of the Senate is assembled, and ready to proceed to business.

TUESDAY, December 7.

A message from the House of Representatives informed the Senate that a quorum of the body is assembled, and ready to proceed to business.

Messrs. LANGDON and MORRIS were appointed a Committee, on the part of the Senate, to inform the President of the United States that a quorum of the two Houses is assembled, and will be ready, in the Senate Chamber, at such time as he may appoint, to receive any communication which he may be pleased to make.

Mr. LANGDON, in the course of the day, reported that the President would meet the two Houses, as proposed, to-morrow at 12 o'clock.

WEDNESDAY, December 8.

JONATHAN ELMER, from New Jersey; CALEB STRONG, from Massachusetts; and GEORGE READ, from the State of Delaware; attended.

A letter from the Commissioners of the city and county of Philadelphia was received, offering to Congress the county court-house for their accommodation during their residence in Philadelphia.

The members of the House of Representatives having taken their seats, the PRESIDENT of the United States entered the Senate Chamber, and addressed both Houses as follows:

*Fellow Citizens of the Senate*

*and House of Representatives:*

In meeting you again, I feel much satisfaction in being able to repeat my congratulations on the favorable prospects which continue to distinguish our public affairs. The abundant fruits of another year have blessed our country with plenty, and with the means of a flourishing commerce. The progress of public credit is witnessed by a considerable rise of American stock abroad as well as at home; and the



FEB. 18, 1791.]

Proceedings.

[SENATE.]

UNITED STATES, February 14th, 1791.

*Gentlemen of the Senate:*

Conceiving that in the possible event of a refusal of justice on the part of Great Britain, we should stand less committed should it be made to a private rather than a public person, I employed Mr. Gouverneur Morris, who was on the spot, and without giving him any definite character, to enter informally into the conferences before mentioned. For your more particular information, I lay before you the instructions I gave him, and those parts of his communications wherein the British ministers appear either in conversation or by letter. These are two letters from the Duke of Leeds to Mr. Morris, and three letters of Mr. Morris, giving an account of two conferences with the Duke of Leeds, and one with him and Mr. Pitt. The sum of these is, that they declare, without scruple, they do not mean to fulfil what remains of the Treaty of Peace to be fulfilled on their part, (by which we are to understand the delivery of the posts and payment for property carried off) till performance on our part, and compensation where the delay has rendered the performance now impracticable; that on the subject of a treaty of commerce they avoided direct answers, so as to satisfy Mr. Morris they did not mean to enter into one unless it could be extended to a treaty of alliance offensive and defensive, or unless in the event of a rupture with Spain.

As to the sending a Minister here, they made excuses at the first conference, seem disposed to it in the second, and in the last express an intention of so doing.

Their views being thus sufficiently ascertained, I have directed Mr. Morris to discontinue his communications with them. GEO. WASHINGTON.

*Ordered,* That this message lie for consideration.

TUESDAY, February 15.

RICHARD HENRY LEE, from Virginia, attended.

No business of importance before the Senate to-day.

WEDNESDAY, February 16.

MR. CARROLL gave notice, that to-morrow he intended to move for leave to bring in a bill to amend the act entitled "An act for establishing the temporary and permanent seat of the Government of the United States," pursuant to the plan suggested in the President's message of the 24th of January last.

On motion,

*Ordered,* that the Secretary of the Treasury cause a statement of the exports of the United States, for one year, to be laid before the Senate; enumerating therein the articles of export, the value thereof, and the countries to which the same shall have been exported.

The petition of the masters of American vessels, in the port of Charleston, South Carolina, praying some further regulations for the encouragement of the carrying trade to Europe, was read.

*Ordered,* That this petition lie on the table.

A message from the House of Representatives informed the Senate that they have pass-

ed a bill to establish offices for the purpose of granting lands within the Territories of the United States, in which they desire the concurrence of the Senate. The bill received its first reading.

THURSDAY, February 17.

The Senate proceeded to the second reading of the bill to establish offices for the purpose of granting lands within the territory of the United States.

*Ordered,* That the further consideration hereof be postponed.

Agreeably to notice given yesterday, leave was requested to bring in a bill to amend an act, entitled "An act for establishing the temporary and permanent seat of the Government of the United States."

And, on the question, Shall leave be given to bring in the bill moved for? the yeas and nays were required by one-fifth of the Senators present:

YEAS.—Messrs. Butler, Carroll, Dickinson, Elmer, Few, Gunn, Hawkins, Henry, Johnston, Izard, Langdon, Lee, Monroe, Morris, Read, Stanton, Strong.—17.

NAYS.—Messrs. Dalton, Ellsworth, Foster, Johnson, King, Maclay, Wingate.—7.

So it passed in the affirmative.

And the bill was accordingly brought in and read the first time.

MR. SCHUYLER, from the committee appointed to take into consideration the bill sent from the House of Representatives for concurrence, for raising and adding another regiment to the military establishment of the United States, and for making further provision for the protection of the frontiers, reported the bill amended.

FRIDAY, February 18.

The Senate received the following message from the President:

*Gentlemen of the Senate,**and of the House of Representatives.*

I have received from the Secretary of State a report on the proceedings of the Governor of the Northwestern Territory, at Kaskaskia, Cahokia, and Prairie, under the resolution of Congress of August 29, 1788, which, containing matter proper for your consideration, I lay the same before you.

GEO. WASHINGTON.

UNITED STATES, February 18, 1791.

*Ordered,* That the message and papers therein referred to lie for consideration.

Agreeably to the order of the day, the Senate proceeded in the second reading of the bill establishing offices for the purpose of granting lands within the territories of the United States.

*Ordered,* That the consideration thereof be postponed.

The Senate proceeded to the second reading of the "bill to amend an act, entitled an act for establishing the temporary and permanent



SENATE.]

Proceedings.

[FEB. 19, 1791.]

seat of the Government of the United States;" and,

On motion to postpone the consideration of the bill to this day sevensnight, the yeas and nays were required by one fifth of the members present:

YEAS.—Messrs. Dalton, Dickinson, Ellsworth, Elmer, Foster, Johnson, King, Langdon, Maclay, Morris, Read, Schuyler, Stanton, Strong, Wingate.—15.

NAYS.—Messrs. Butler, Carroll, Few, Gunn, Hawkins, Henry, Johnston, Izard, Lee, Monroe.—10.

So it passed in the affirmative.

The Senate on Executive business. The following message from the President of the United States was under consideration:

UNITED STATES, February 18, 1791.

*Gentlemen of the Senate:*

The aspect of affairs in Europe during the last summer, and especially between Spain and England, gave reason to expect a favorable occasion for pressing to accommodation the unsettled matters between them and us. Mr. Carmichael, our Chargé des Affaires at Madrid, having been long absent from his country, great changes having taken place in our circumstances and sentiments during that interval, it was thought expedient to send some person in a private character, fully acquainted with the present state of things here, to be the bearer of written and confidential instructions to him, and at the same time to possess him in full and frequent conversations, of all those details of facts and topics of arguments, which could not be conveyed in writing; but which would be necessary to enable him to meet the reasonings of that Court with advantage. Colonel David Humphreys was therefore sent for these purposes.

An additional motive for this confidential mission arose in the same quarter. The Court of Lisbon had, on several occasions, made the most amicable advances for cultivating friendship and intercourse with the United States. The exchange of a diplomatic character had been informally, but repeatedly suggested on their part. It was our interest to meet this nation in its friendly dispositions, and to concur in the exchange proposed. But my wish was, at the same time, that the character to be exchanged should be of the lowest and most economical grade. To this it was known that certain rules of long standing at that Court would produce obstacles. Colonel Humphreys was charged with despatches to the Prime Minister of Portugal, and with instructions to endeavor to arrange this to our views. It happened, however, that, previous to his arrival at Lisbon, the Queen had appointed a Minister resident to the United States. This embarrassment seems to have rendered the difficulty completely insurmountable. The Minister of that Court, in his conferences with Colonel Humphreys, professing every wish to accommodate, yet expresses his regrets that circumstances do not permit them to concur in the grade of Chargé des Affaires, a grade of little privilege or respectability by the rules of their Court, and held in so low estimation with them that no proper character would accept it, to go abroad. In a letter to the Secretary of State he expresses the same sentiments, and announces the appointment, on their part, of a Minister resident to the United States, and the pleasure with which the Queen will receive one from us at her Court. A copy of his letter, and also of Co-

lonel Humphreys, giving the details of this transaction, will be delivered to you.

On consideration of all circumstances I have determined to accede to the desire of the Court of Lisbon in the article of grade. I am aware that the consequences will not end here, and that this is not the only instance in which a like change may be pressed. But should it be necessary to yield elsewhere also, I shall think it a less evil than to disgust a Government so friendly and so interesting to us as that of Portugal.

I do not mean that the change of grade shall render the mission more expensive.

I have therefore nominated David Humphreys Minister resident from the United States to Her Most Faithful Majesty the Queen of Portugal.

GEO. WASHINGTON.

*Ordered,* That this message lie for consideration.

SATURDAY, February 19.

The Senate resumed the consideration of the bill for raising and adding another regiment to the military establishment of the United States, and for making further provision for the protection of the frontiers, reported by the committee with amendments; and

On motion to adopt the first section of the bill, as sent from the House of Representatives, and reported by the committee of the Senate, the yeas and nays were required by one-fifth of the Senators present:

YEAS.—Messrs. Carroll, Dalton, Dickinson, Ellsworth, Elmer, Foster, Henry, Johnson, Johnston, Izard, King, Langdon, Schuyler, Stanton, and Strong.—15.

NAYS.—Messrs. Butler, Few, Gunn, Maclay, Monroe, and Wingate.—7.

So it passed in the affirmative.

On the motion to add, after the tenth section agreed to, with an amendment reported by the committee,

*And be it further enacted,* That if the President of the United States should be of opinion that the service for which the aforesaid regiment is intended, can be performed by the militia, or troops under the denomination of levies, he is fully authorized, any thing heretofore to the contrary notwithstanding, to substitute levies or militia accordingly, to continue in pay during such term only as the President of the United States, in his discretion, shall deem it requisite for the public service, or until the next session of Congress.

It passed in the negative.

Other amendments were reported by the committee and adopted, and it was agreed to amend the bill accordingly.

*Ordered,* That this bill pass to the third reading.

The second reading of the bill to alter the time of the next meeting of Congress, was postponed until Tuesday next.

It was agreed further to postpone the report of the committee appointed to consider and report what time will be proper for the commencement of the next Congress, together with the resolution of the House of Representatives thereon.

FEB. 26, 1791.]

Proceedings.

[SENATE.]

*And be it further enacted,* That nothing in the act to which this is a supplement, shall restrain the Legislature from repealing the same, and abolishing the corporation thereby established, at any time after the fourth day of March, one thousand eight hundred and two.

The yeas and nays were required by one-fifth of the Senators present.

YEAS.—Messrs. Butler, Carroll, Few, Gunn, Hawkins, Johnston, Iazard, Lee, and Monroe.—9.

NAYS.—Messrs. Bassett, Dalton, Dickinson, Ellsworth, Elmer, Foster, Henry, Johnson, King, Langdon, Maclay, Morris, Read, Schuyler, Stanton, Strong, and Wingate.—17.

So it passed in the negative.

*Resolved,* That this bill pass.

*Ordered,* That the Secretary acquaint the House of Representatives with the concurrence of the Senate in this bill.

The bill sent from the House of Representatives for concurrence supplemental to the act establishing the Treasury Department, was read the first time.

The Senate on Executive business. A message from the President nominating Joseph Anderson, of Delaware, to be one of the Judges in the territory of the United States south of the Ohio, in the place of William Perry, who has declined the appointment; and William Murray, of Kentucky, to be Attorney for the United States in the district of Kentucky, in the place of James Brown, who has declined the appointment—lies for consideration.

#### SATURDAY, February 26.

Mr. MORRIS communicated the request of the American Philosophical Society, "that the Vice President of the United States and the Senate would attend the eulogium to be pronounced by order of the Society, to the memory of their late worthy President, Benjamin Franklin, on Tuesday morning next, at the German Lutheran Church, at half-past nine o'clock."

The bill to amend an act, entitled "An act for establishing the temporary and permanent seat of the Government of the United States," was then read a third time.

*Resolved,* That this bill pass.

The bill sent from the House of Representatives for concurrence, entitled "An act supplemental to the act establishing the Treasury Department," was read the second time; and,

*Ordered,* That this bill be referred to the committee appointed on the 24th of February, on the motions respecting the officers of the Department of the Treasury, and the Attorney General.

The bill sent from the House of Representatives for concurrence, fixing the time for the next annual meeting of Congress, was read the third time.

*Resolved,* That this bill pass.

The bill concerning the balances due to the United States in certain cases, was read a second time.

Mr. STRONG reported, from the committee appointed to take into consideration the bill sent from the House of Representatives for concurrence, to establish offices for the purpose of granting lands within the territories of the United States, that the further consideration of this bill be postponed until the next session of Congress.

On motion, it was agreed to postpone the report of the committee, and to resume the second reading of the bill; and, after debate,

*Ordered,* That this bill be recommitted.

A message from the House of Representatives informed the Senate that they recede from their disagreement to the amendment last proposed by the Senate, to the last clause of the section to follow section sixty-first of the bill, entitled "An act repealing, after the last day of June next, the duties heretofore laid upon distilled spirits imported from abroad, and laying others in their stead; and, also, upon spirits distilled within the United States, and for appropriating the same;" and they agree to the amendment amended as follows: After the word "exceed," substitute these words, "seven per cent. of the whole product of the duties arising from the spirits distilled within the United States: *And provided also,* That such allowance shall not exceed the annual amount of forty-five thousand dollars, until the same shall be further ascertained by law."

The report from the managers appointed to confer with the managers appointed on the part of the House of Representatives, on the disagreeing votes of the two Houses, to the last clause of the section to follow section sixty-first of the last mentioned bill, was considered, whereupon,

*Resolved,* That the Senate do agree to the resolution of the House of Representatives, on the clause above referred to, and that the amendment thereon be as follows: After the word "exceed," substitute these words, "seven per cent. of the whole product of the duties arising from the spirits distilled within the United States: *And provided, also,* that such allowance shall not exceed the annual amount of forty-five thousand dollars, until the same shall be further ascertained by law."

Mr. ELLSWORTH, from the committee to whom was referred the bill sent from the House of Representatives for concurrence, entitled "An act supplemental to the act establishing the Treasury Department," reported amendments, which were adopted, and,

*Ordered,* That this bill pass to the third reading.

The Senate on Executive business. The nominations of yesterday were confirmed.

The report of the committee to whom was referred the message from the President of the United States, of the 18th instant, with the note of the Chargé d' Affaires of France, of the 13th December, was taken into consideration; and, being amended, was agreed to. Whereupon,

*Resolved,* As the opinion of the Senate, that the 5th article of the treaty of amity and commerce be-



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Proceedings.

[MARCH 1, 1791.]

tween the United States and His Most Christian Majesty, is merely an illustration of the third and fourth articles of the same treaty, by an application of the principles comprised in the last mentioned articles, to the case stated in the former.

*Resolved*, That the Senate do advise that an answer be given to the Court of France, defending, in the most friendly manner, this construction, in opposition to that urged by said Court.

MONDAY, FEBRUARY 28.

The Senate proceeded to the third reading of the bill sent from the House of Representatives for concurrence, supplemental to the act establishing the Treasury Department.

A message from the House of Representatives informed the Senate that they had passed a bill concerning the rates of foreign coins, in which they desire the concurrence of the Senate; and that they agree to the amendments of the Senate to the bill for raising and adding another regiment to the military establishment of the United States, and for making further provision for the protection of the frontiers, with amendments; in which amendments to the amendments they desire the concurrence of the Senate.

The bill sent from the House of Representatives for concurrence concerning the rates of foreign coins, was read the first time.

*Ordered*, That this bill have a second reading.

The Senate took into consideration the resolution of the House of Representatives, on their amendments to the amendments of the Senate, to the bill for raising and adding another regiment to the military establishment of the United States, and for making further provision for the protection of the frontiers; and, after progress, the further consideration thereof was postponed until to-morrow.

Mr. STRONG reported from the committee to whom was referred the bill concerning the payment of balances due to the United States in certain cases; whereupon,

*Ordered*, That the further consideration of this bill be postponed to the next session of Congress.

TUESDAY, March 1.

The bill sent from the House of Representatives for concurrence, entitled "An act concerning the rates of foreign coins," was read the second time; and,

*Ordered*, That it be committed to Messrs. SCHUYLER, MONROE, and MACLAY, to consider generally, and report thereon.

The consideration of the resolution of the House of Representatives on the amendments of the Senate to the bill for raising and adding another regiment to the military establishment of the United States, and for making further provision for the protection of the frontiers, was resumed, and

*Resolved*, That the Senate agree to all amendments of the House of Representatives, on the amendments of the Senate, except the two last, to which the Senate do not agree.

Mr. MORRIS reported, from the committee appointed February 7th, on the report of the Secretary of the Treasury, relative to the establishment of a mint, and the report was ordered to lie for consideration.

Mr. IZARD reported, from the committee to whom was referred the report of the Secretary of State, on the subject of weights, measures, and coins, "that, as a proposition has been made to the National Assembly of France for obtaining a standard of measure which shall be invariable, and communicable to all nations, and at all times; as a similar proposition has been submitted to the British Parliament, in their last session; as the avowed object of these is, to introduce a uniformity in the measures and weights of the commercial nations; as a coincidence of regulation, by the Government of the United States, on so interesting a subject, would be desirable, your committee are of opinion, that it would not be eligible, at present, to introduce any alteration in the measures and weights which are now used in the United States."

And the report was adopted.

On motion, that it be "resolved, that a committee be appointed, to join with a committee of the House of Representatives, to wait on the President of the United States, and communicate to him the desire of both Houses of Congress, that he would cause every proper means to be used to bring about a peace between the United States and the Wabash and Miami Indians, previous to further hostilities on those nations, and that Congress will make provision to defray the necessary expense thereof."

A motion was made to add to the motion as follows: "And likewise to obtain from such tribes a relinquishment of their claims to the territory of the United States, wherein it can be accomplished, so as to make the same a more productive fund for the payment of the public debt."

And the consideration hereof was postponed until to-morrow.

Mr. SCHUYLER, from the committee on the bill sent from the House of Representatives for concurrence, entitled "An act concerning the rates of foreign coins," reported amendments, and it was agreed to amend the bill accordingly.

It was agreed, by unanimous consent, so far to dispense with the rule, as that this bill be now read the third time; and, the bill having been read accordingly,

*Resolved*, That this bill pass, with the following amendments:

Expunge the whole of the second section.

In the title, after the word 'act,' expunge the whole, and substitute 'relative to the rix dollar of Denmark.'

*Ordered*, That the Secretary desire the concurrence of the House of Representatives in these amendments.

A message from the House of Representatives informed the Senate that they had passed the bill sent from the Senate for concurrence, en-



MARCH 2, 1791.]

Proceedings.

[SENATE.]

titled "An act to amend an act for establishing the temporary and permanent seat of the Government of the United States," that they agree to the amendments of the Senate to the bill supplemental to the act establishing the Treasury Department, and for a further compensation to certain officers; and for making compensations to the Commissioners of Loans, for extraordinary expenses; and the bill providing compensation for the officers of the judicial courts of the United States, and for jurors and witnesses, and for other purposes;" in which two last mentioned bills they desire the concurrence of the Senate.

The bill sent from the House of Representatives for concurrence, entitled "An act for making compensation to the Commissioners of Loans for extraordinary expenses," was read the first time.

The bill sent from the House of Representatives for concurrence, entitled "An act providing compensations for the officers of the judicial courts of the United States, and for jurors and witnesses, and for other purposes," was read the first time, and ordered to a second reading.

*Ordered*, That Messrs. SCHUYLER, ELLSWORTH, and BUTLER, be a committee to revise the laws of the United States, to report such as are expired, or are about to expire, and a bill or bills for the revival of such as may be deemed necessary.

Mr. LANGDON, from the committee appointed to consider that part of the speech of the President of the United States which relates to the commerce of the Mediterranean, and to whom was referred the message from the President of the United States of the 30th December, and papers, together with his message of 22d February, reported a bill, which was read the first time, entitled "An act making an appropriation for the purposes therein mentioned."

It was agreed, by unanimous consent, so far to dispense with the rule, as that this bill be now read the second time.

On motion to commit the bill, with an instruction to augment the sum of twenty thousand dollars, therein appropriated, to sixty thousand dollars,

It passed in the negative.

*Ordered*, That this bill pass to the third reading.

Mr. STRONG reported from the committee appointed to take into consideration the bill to establish offices for the purposes of granting lands within the territories of the United States;" whereupon,

*Resolved*, by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he hereby is, requested to cause a return to be made to Congress, at their next session, of the quantity and situation of the lands not claimed by the Indians, nor granted to nor claimed by any of the citizens of the United States, within the territory ceded to the

United States by the State of North Carolina, and within the territory of the United States northwest of the river Ohio.

*Ordered*, That the Secretary request the concurrence of the House of Representatives in this resolution.

*Ordered*, That the further consideration of the bill last mentioned be postponed until the next session of Congress.

The Senate on Executive business. Mr. LANGDON, from the committee to whom was referred the message of the United States of the 22d ult., made a report which was ordered to lie for consideration.

WEDNESDAY, March 2.

A message from the House of Representatives informed the Senate that they recede from their two last amendments to the amendments of the Senate to the bill for raising and adding another regiment to the military establishment of the United States, and for making further provision for the protection of the frontiers, and that they agree to the amendments of the Senate to the bill entitled "An act concerning the rates of foreign coin;" and that they have passed the bill to continue in force, for a limited time, entitled "An act for the temporary establishment of the Post-office;" the bill for making compensation to the widows and orphan children of certain officers who were killed, or who died in the service of the United States during the late war; and for the relief of certain invalids, and other persons therein mentioned; and the bill supplementary to the act making provision for the reduction of the public debt; in which three last mentioned bills they desire the concurrence of the Senate.

Mr. SCHUYLER, from the committee appointed to revise the laws of the United States, reported a bill, which was read the first time.

*Ordered*, That this bill pass to the second reading.

The bill sent from the House of Representatives for concurrence, for making compensation to the widows and orphan children of certain officers who were killed or who died in the service of the United States, during the late war; and for the relief of certain invalids and other persons therein mentioned, was read the first time; and it was agreed, by unanimous consent, that the rule be so far dispensed with, as that this bill be now read the second time.

*Ordered*, That this bill be committed to Messrs. WINGATE, STRONG, and CARROLL, to consider and report thereon.

The bill sent from the House of Representatives for concurrence, supplementary to the act making provision for the reduction of the public debt, was read the first and second time and postponed till to-morrow.

The bill sent from the House of Representatives for concurrence, to continue in force for a limited time, an act entitled "An act for the temporary establishment of the Post-office," was read the first and second time.

THE  
DEBATES AND PROCEEDINGS  
IN THE  
CONGRESS OF THE UNITED STATES;  
WITH  
AN APPENDIX,  
CONTAINING  
IMPORTANT STATE PAPERS AND PUBLIC DOCUMENTS,  
AND ALL  
THE LAWS OF A PUBLIC NATURE;  
WITH A COPIOUS INDEX.

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SECOND CONGRESS:  
COMPRISING THE PERIOD FROM OCTOBER 24, 1791, TO MARCH 2, 1793,  
INCLUSIVE.

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COMPILED FROM AUTHENTIC MATERIALS.

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WASHINGTON:

PRINTED AND PUBLISHED BY GALES AND SEATON.

.....  
1849.

H. of R.]

Georgia Election.

[NOVEMBER, 1791.]

his own mind to the same conclusion, that it was the part of the Federal Constitution, of all others, most defective and insecure. Thirty-three members had formed the House, seventeen was a majority, and equal to the decision of any question. Questions had already occurred, involving property to the amount of from fifty to eighty millions of dollars, and much of it in the hands of the most daring individuals, rendered desperate by their speculations. He did not say there had been any foundation for uneasy apprehensions from that quarter; but he did say, that in other countries it would be supposed to be a most dangerous experiment upon the passions and imperfections of human nature. But it had been said, and with an unexpected assurance, that increasing the numbers did not increase the security against these evils. If so, why not reduce it at once to the venerable number thirteen; or, indeed, three; which would give us as great a security as the whole body of the people? It is idle to pursue observations on such a point: the mind that can ask for reasoning upon it, can scarcely be supposed in a situation to be benefited by reasons.

The Federal Government, it must be admitted, is in fact pretty highly seasoned with prerogative; practice has already evinced the necessity, in many instances, of increasing it, by devolving much of the Legislative power upon the Executive Department, arising from the difficulty of making particular provisions and details in our laws, and accommodating them to the various interests of so extensive a country.

The other branch of the Legislature has many traits of a perpetual—at least of a very solid constituent part of the Government. He did not mention these as imperfections in the Government; they are perfections, if the other parts can be in due proportion: but it is surely a sound reason against taking positive measures at this time to diminish the Representative branch. For his own part, he was not well satisfied as to the intention. If there is any reason to apprehend that the Government will depart from the point on which it was first placed, he could scarcely suppose that any one could be honestly alarmed with the fear that the departure would be towards Democracy. He concluded, by expressing his hopes that the representation to the next Congress would be fixed at one for thirty thousand, as it had hitherto been, and that the motion for striking out would not prevail.

At this point the Committee rose, and had leave to sit again.

FRIDAY, November 11.

The House met pursuant to adjournment; but as a great proportion of the members were on committees, who were not ready to report, Mr. STEELE moved that, in order to afford those committees time to prepare and bring in their respective reports, the House should adjourn until Monday next; which motion was unanimously agreed to.

JOHN W. KITTEA, from Pennsylvania, appeared, produced his credentials, and took his seat in the House to-day.

MONDAY, November 14.

A petition of James Jackson, of the State of Georgia, was presented to the House and read, complaining of the undue election and return of ANTHONY WAYNE, one of the members returned to serve in this House for the said State.

Mr. BALDWIN moved that the petition should be referred to the Committee of Elections. He offered several observations to show the propriety of giving early attention to the business, particularly as the contested election took place in the remotest part of the remotest State in the Union. It was observed that a reference to the committee appointed to bring in a bill for establishing an uniform mode of proceeding in cases of contested elections, appeared to be the most eligible. A reference to the Committee of Elections was objected to, as the subject did not come within their cognizance, as that committee can only determine respecting the certificate, &c., which are required from the Executive of the State to entitle to a seat in the House. A reference to the committee appointed to report a bill was also objected to, as that committee was not authorized to take notice of past transactions, or to report a retrospective regulation. A select committee was mentioned, agreeably to the mode adopted in the two contested elections which occurred in the first Congress; but, it being observed that the petition was unaccompanied with the requisite documents mentioned in it, Mr. B. withdrew his motion, and the petition was laid on the table.

A petition of Moses Hazen was presented to the House and read, praying the settlement of a claim against the United States as an officer in the late army.

*Ordered*, To lie on the table.

A Message was received from the President of the United States by Mr. Secretary Lear, with a copy of a resolution of the Legislature of Virginia, ratifying the first article in the amendments proposed by Congress to the Constitution of the United States; also, sundry papers relative to a purchase of land on the Great Miami, by John C. Symmes.

*Ordered*, That the papers relating to the Miami purchase be referred to the committee appointed to prepare and bring in a bill or bills to establish offices for the purpose of granting lands within the territories of the United States.

The petition of Stephen Zachary, merchant, of Baltimore, was read, stating that, in consequence of an unintentional error in a bill of sale of a vessel purchased at Port-au-Prince, he had been obliged to pay extra tonnage duties, and praying relief. On motion, this petition was referred to a select committee, consisting of Messrs. FITZSIMONS, HUGER, and GILMAN.

A petition of the distillers of spirits in the town of Baltimore was presented to the House and read, praying a reduction of duties, and farther re-



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prejudices and suspicions that have been circulated against them. It is said to be problematical whether there are any balances due; but, if it should appear that there are, they may be obtained, and a much greater sum realized than is now thought of, and new burdens on the people to that amount may be prevented.

#### INDEMNITY TO GENERAL GREENE.

The House then again resolved itself into a Committee of the Whole House on the resolution to indemnify the estate of the late General Nathaniel Greene for a certain suretyship entered into by the said Nathaniel in his lifetime on the public behalf; and, after some time spent therein, the Committee rose, and had leave to sit again.

FRIDAY, February 24.

A petition of sundry merchants of Philadelphia, trading to India and China, was presented to the House and read, praying the protection and encouragement of the General Government, either by prohibiting foreigners from interfering in the trade, or making a greater distinction than now exists, between the duties imposed upon goods imported into the United States, immediately from Asia, and those brought by the way of Europe. Referred to the Committee of the Whole House on the state of the Union.

A message from the Senate, by Mr. OTIS, their Secretary, informed the House that he had brought to the House, the bill for making farther and more effectual provision for the defensive protection of the frontiers of the United States, together with a fair transcript from their Journal, of the amendments thereto; to which amendments the Senate desire the concurrence of this House.

#### INDEMNITY TO GENERAL GREENE.

The House then resolved itself into a Committee of the Whole on the resolution to indemnify the estate of the late Major General Nathaniel Greene for a certain suretyship entered into by the said Nathaniel, in his lifetime, on public account; and, after some time spent therein, the Chairman reported that the Committee had again had the resolution under consideration, and directed him to report the same, amended to read as follows:

"Whereas the late Major General Nathaniel Greene, on the eighth day of April, one thousand seven hundred and eighty-three, the more effectually to procure rations and supplies for the Southern army of the United States, became bound as surety for John Banks and Company, to Newcomen and Collet, merchants in Charleston, for the payment of eight thousand seven hundred and forty-three pounds, fifteen shillings and sixpence, sterling money, being the condition of the said bond:

"And whereas, on the first day of May, one thousand seven hundred and eighty-six, the balance of principal and interest of the said bond, being then eight thousand six hundred and eighty-eight pounds six shillings sterling, was paid by the said General Greene: Therefore,

"Resolved, That the United States shall indemnify the estate of the said General Greene for the said sum last mentioned and the interest thereof, or for such sum as, upon due investigation by the officers of the Treasury,

of the transaction between John Banks and Company with Messrs. Newcomen and Collet, in which General Greene was security for the said Banks and Company, it shall appear that neither General Greene nor his Executors shall have received any payment or compensation for. *Provided*, The Executors of the said General Greene shall account for a sum, being about two thousand pounds, be the same more or less, recovered of John Ferrie, one of the partners of the said Banks and Company, to be in part of the indemnification aforesaid. And also shall make over, for the use of the United States, all mortgages, bonds, covenants, or other counter securities, whatsoever, now due, which were obtained by the said General Greene in his lifetime, from the said Banks and Company, on account of his being surety for them as aforesaid, to be sued for in the name of the said Executors, for the use of the United States."

The House proceeded to consider the said resolution; and, after some time spent therein, an adjournment was called for, and carried.

SATURDAY, February 25.

#### PROTECTION OF THE FRONTIERS.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act for making farther and more effectual provision for the protection of the frontiers of the United States;" and the same being read, some were agreed to, others amended and agreed to, and other disagreed to.

*Ordered*, That the Clerk of this House do acquaint the Senate therewith.

MONDAY, February 27.

A Report was received on the petitions of the importers of teas from India, which was in favor of the petitioners; and proposes extending the time for payment of the duties from one to two years. Laid on the table.

On motion of Mr. W. SMITH, the laws for the government of the Western Territory, received from the Secretary of State, were committed to the committee on the petition of Judge Turner.

#### GEORGIA CONTESTED ELECTION.

This being the day assigned for the trial of the contested election in the case of the petition of JAMES JACKSON, complaining of an undue election and return of ANTHONY WAYNE, one of the members returned to serve in this House for the State of Georgia, the House proceeded to take up the same for consideration, and the petitioner, on his prayer, being admitted to the bar of the House—

Mr. WAYNE rose, and after observing that the last postponement had not afforded sufficient time to receive the evidence which he meant to bring forward on this occasion, offered a resolution for a further postponement to the ——— Monday in March next.

On motion, it was unanimously voted that a seat be assigned for the petitioner, Mr. JACKSON, in which he might, either by himself, or his attorney, state his objections, if any, to a further postponement.

Mr. JACKSON accordingly took a seat within the

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bar, and addressing the Chair, offered several objections to a further postponement.

To these objections Mr. WAYNE replied; and after sundry observations from various parts of the House, the question on taking up the order of the day was put and carried.

The resolution for a postponement was then further discussed and amended, and finally agreed to in the following words, viz:

"Resolved, That the trial of the contested election of ANTHONY WAYNE, returned as a member of this House to represent the State of Georgia, be postponed to the second Monday in March next." Thirty-six members rose in favor of the motion.

Mr. BALDWIN informed the House, that he had received certain papers relative to this election from the Supreme Executive of the State of Georgia, which he asked leave to lay on the table agreeably to instructions.

Many objections were made to receiving these papers from all parts of the House.

Mr. BALDWIN, after remarking that they contained many documents which the House must necessarily recur to in the course of the trial; and that he had so far pursued his instructions, as would fully exculpate the Executive of Georgia from any charge of remissness in duty on the occasion, took back the papers.

Whereupon, as well the sitting member as the petitioner, being fully heard on the subject-matter of the said application:

Resolved, That the trial of the said contested election be postponed until the second Monday in March next.

TUESDAY, February 28.

#### PROTECTION OF THE FRONTIERS.

A message from the Senate informed the House that the Senate recede from some and insist on other of their amendments disagreed to by this House to the bill for making further and more effectual provision for the protection of the frontiers of the United States.

The House proceeded to consider the said message. Whereupon,

Resolved, That this House doth recede from the amendment to the thirteenth amendment proposed by the Senate to the eighth section of said bill, and doth agree to the said thirteenth amendment without amendment: also, that this House doth recede from their disagreement to the amendment proposed by the Senate to the sixth section of the said bill.

Resolved, That this House doth insist on their disagreement to all the other amendments proposed by the Senate to the said bill, on which the Senate hath insisted; and also doth insist on the amendment to the third amendment proposed by the Senate to the sixteenth section of the said bill, to which the Senate hath disagreed.

Resolved, That a conference be desired with the Senate, on the subject-matter of the amendments disagreed to; and that Mr. SEDGWICK, Mr. WILLIAMSON, Mr. WHITE, Mr. DAYTON, and Mr.

BROWN, be appointed managers at the said conference, on the part of this House.

On the question that this House doth insist on their disagreement to the amendment of the Senate for striking out the fourteenth section of the said bill, in the words following, to wit:

"And whereas, in case the forbearing to raise the whole, or some part of the said three additional regiments, should be deemed not consistent with the public safety, it will still be desirable that all unnecessary expense should, as far as possible, be avoided; and, to that end, that the officers of the same should only be appointed from time to time, as occasion may require—

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President alone be authorized to make all such appointments as may not be required previous to the close of the present session of the Senate, and may become necessary before the next session of Congress."

It was resolved in the affirmative—yeas 43, nays 9, as follows:

YEAS.—Fisher Ames, John Baptist Ashe, Abraham Baldwin, Robert Barnwell, Elias Boudinot, Shearjashub Bourne, Benjamin Bourne, John Brown, Abraham Clark, Jonathan Dayton, Elbridge Gerry, Nicholas Gilman, Benjamin Goodhue, Andrew Gregg, William Barry Grove, James Hillhouse, Daniel Huger, Philip Key, Aaron Kitchell, Amasa Learned, Nathaniel Macon, James Madison, Andrew Moore, Frederick Augustus Muhlenberg, William Vans Murray, Nathaniel Niles, John Page, Josiah Parker, Cornelius C. Schoonmaker, Theodore Sedgwick, Joshua Seney, Jeremiah Smith, William Smith, John Steele, Samuel Sterrett, Jonathan Sturges, Thomas Sumpter, Peter Sylvester, George Thatcher, Jeremiah Wadsworth, Artemas Ward, Alexander White, and Hugh Williamson.

NAYS.—Egbert Benson, Thomas Fitzsimons, Thomas Hartley, Daniel Heister, Samuel Livermore, Israel Smith, Thomas Tredwell, Anthony Wayne, and Francis Willis.

#### MILITIA BILL.

The House again resolved itself into a Committee of the Whole House on the bill more effectually to provide for the national defence, by establishing a uniform Militia throughout the United States; and, after some time spent therein, the Committee rose and reported progress.

WEDNESDAY, February 29.

A message from the Senate informed the House that the Senate agree to the conference proposed by this House on the subject-matter of the amendments depending between the two Houses to the bill entitled "An act for making further and more effectual provision for the protection of the frontiers of the United States," and have appointed managers at the said conference on their part.

Ordered, That Mr. STEELE be appointed one of the managers at the said conference, on the part of this House, in the room of Mr. DAYTON, incapacitated by sickness.

The SPEAKER laid before the House a Letter from the Treasurer of the United States, accompanying his account of receipts and expenditures



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*John Churchman—Militia Bill—Protection of the Frontier.*

[MARCH, 1792.]

of public money between the 1st of October and the 31st of December, 1791, inclusive; which were read, and ordered to be referred to Mr. FITZSIMONS, Mr. LAURANCE, and Mr. AMES.

The SPEAKER laid before the House a Letter from the Secretary of the Treasury, covering his report on the petition of the executors of Edward Carnes, deceased; which was read, and ordered to be committed to a Committee of the Whole House on Monday next.

A memorial of the merchants of New York trading to India and China was presented to the House and read, praying the patronage and encouragement of the General Government, either by prohibiting foreigners from interfering in the said trade, or making a greater difference than now exists between duties on goods imported into the United States immediately from Asia and those brought by the way of Europe.

*Ordered,* That the said memorial be referred to the Committee of the Whole House on the state of the Union.

Mr. SMITH, of South Carolina, from the committee appointed to examine whether any, and what, alterations are necessary to be made in the acts establishing the Treasury and War Departments, made a report; which was read, and ordered to be committed to a Committee of the Whole House on Tuesday next.

#### PETITION OF JOHN CHURCHMAN.

The House proceeded to consider the report of the committee to whom was referred the petition of John Churchman. Whereupon,

*Resolved,* That this House doth agree to the said report, in the words following:

"That the said Churchman, having pursued his inquiries into his theory of the variation of the magnetic needle, has found a number of observations, made in different parts of the world, which confirm his hypothesis; that, animated by this circumstance, and applauded for his ingenuity by several learned societies in Europe, which have looked up to him for the prosecution of his plan for establishing the truth of his theory, he has been emboldened to ask again the aid of the General Government of the United States to enable him to gratify the expectations of the philosophical world, and to put his theory to an immediate and the strictest scrutiny. The committee are free to declare it as their opinion, that Mr. Churchman's ingenuity, displayed in proposing and supporting his theory, and his labors in prosecuting his examination thereof, entitle him to the applause of the enlightened world, and to the encouragement and support of his country. And it is the opinion of the committee that, as a more perfect knowledge of the laws of magnetism, and the variation of the magnetic needle, is greatly to be desired, as it would furnish a ready means of adjusting and preventing disputes respecting the boundaries of ancient surveys of land, and of correcting many inaccuracies in geographical charts, and in the journals of the courses and distances run by vessels at sea, every possible encouragement ought to be given to all persons who, by their theories, confirmed by observations, contribute towards the perfecting this desirable knowledge; and that, as the United States are peculiarly interested in whatever can adjust or prevent disputes between their citizens, and can improve geography and

navigation, the Congress of the United States may, with great propriety, patronize such a person as Mr. Churchman, and grant him such aid as may be necessary to enable him to prosecute his laudable inquiries to good effect; but the committee submit to the wisdom of the House to say whether, in the present circumstances of the United States, such grant shall now be made. As to that part of the memorial which states that, in the act for the encouragement of learning, by securing the copies of maps, charts, and books, to their authors and proprietors, the penalty annexed to the offences of copying such maps and charts was too small, and by no means adequate to the offence, and praying for an act to amend the same, the committee are of opinion that the prayer of the memorialist is reasonable, and that the copyright of maps, charts, tables, and prints, ought to be secured to their respective authors, or their assigns, by greater penalties than those declared in the act aforesaid."

*Ordered,* That a bill or bills be brought in, pursuant to the said report, and that Mr. PAGE, Mr. GOODHUE, and Mr. GREGG, do prepare and bring in the same.

#### MILITIA BILL.

The House again resolved itself into a Committee of the Whole House on the bill more effectually to provide for the national defence, by establishing a uniform Militia throughout the United States; and, after some time spent therein, the Committee rose and reported progress.

THURSDAY, March 1.

Mr. GOODHUE, from the joint committee of the two Houses appointed to consider and report what business is necessary to be done by Congress in the present session, made a report; which was read, and ordered to lie on the table.

Mr. WILLIAMSON, from the committee appointed, presented a bill to amend an act entitled "An act to promote the progress of Useful Arts;" which was received, and read the first time.

The House again resolved itself into a Committee of the Whole House on the bill more effectually to provide for the national defence, by establishing a uniform Militia throughout the United States; and, after some time spent therein, the Committee rose and reported progress.

#### PROTECTION OF THE FRONTIERS.

Mr. SEDGWICK, from the managers appointed on the part of the House to attend the conference with the Senate on the subject-matter of the amendment depending between the two Houses to the bill entitled "An act for making further and more effectual provision for the protection of the frontiers of the United States," made a report. Whereupon,

*Resolved,* That this House doth recede from their disagreement to the amendment of the Senate for striking out the fourteenth section of the said bill; also, that this House doth recede from their disagreement to the amendments of the Senate to the sixteenth section, and doth agree to the said several amendments without amendment.

*Resolved,* That this House doth agree to an



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*Militia Bill—Widows, Orphans, &c.*

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France, announcing his acceptance of the Constitution of that Kingdom. These were read and laid on the table.

A message from the Senate informed the House, that they insist on all the amendments proposed by the Senate to the bill to ascertain and regulate the claims to half-pay and invalid pensions; and propose a conference on the subjects of disagreement.

A committee of conference was appointed on the disagreement between the House and Senate, respecting the bill to ascertain and regulate the claims to half-pay and invalid pensions. Committee, MESSRS. LIVERMORE, MURRAY, KITCHELL.

The amendments of the Senate to the bill providing for the relief of certain widows, &c., were read, and laid on the table.

## MILITIA BILL.

The House proceeded to consider the amendments reported from the Committee of the Whole House to the bill more effectually to provide for the national defence by establishing an uniform Militia throughout the United States; and the same being severally read, some were agreed to, and others disagreed to. The said bill was then further amended; and, together with the amendments, ordered to be engrossed, and read the third time tomorrow.

## TUESDAY, March 6.

A memorial of the Trustees of the University of North Carolina was presented to the House and read, praying to be reimbursed for the value of certain tracts of land in the Western Territory of the said State, which were a donation to the said University from Benjamin Smith, Esquire, and have been since ceded to the Indians, by the Commissioners of the United States, at the Treaty of Hopewell.

*Ordered*, That the said memorial do lie on the table.

A petition of Andrew Jackson was presented to the House and read, praying compensation for his services as Attorney for the District of Miro, in the Territory South of the Ohio. Referred to the Attorney General, with instruction to examine the same, and report his opinion thereupon to the House.

## MILITIA BILL.

An engrossed bill more effectually to provide for the national defence, by establishing an uniform Militia throughout the United States, was read the third time, and the blanks therein filled up; and, on the question that the said bill do pass,

It was resolved in the affirmative—yeas 31, nays 27; as follows:

YEAS.—Fisher Ames, John Baptist Ashe, Robert Barnwell, Egbert Benson, Elias Boudinot, Benjamin Bourne, Abraham Clark, Thomas Fitzsimons, Elbridge Gerry, William B. Giles, Benjamin Goodhue, William Barry Grove, James Hillhouse, Philip Key, Aaron Kitchell, John Laurance, Amasa Learned, Richard Bland Lee, James Madison, Andrew Moore, Frederick Augustus Muhlenberg, William Vans Murray, Theodore Sedgwick, Israel Smith, William Smith, John Steele, Samuel

Sterrett, Jonathan Sturges, Peter Sylvester, Abraham Venable, and Alexander White.

NAYS.—Abraham Baldwin, Shearjashub Bourne, William Findley, Nicholas Gilman, James Gordon, Andrew Gregg, Samuel Griffin, Daniel Heister, Samuel Livermore, Nathaniel Macon, John Francis Mercer, Nathaniel Niles, John Page, Josiah Parker, Cornelius C. Schoonmaker, Joshua Senoy, Jeremiah Smith, Thomas Sumpter, George Thatcher, Thomas Tredwell, Thomas Tudor Tucker, John Vining, Jeremiah Wadsworth, Artemas Ward, Anthony Wayne, Hugh Williamson, and Francis Willis.

Mr. GERRY, from the committee appointed, presented a bill for reducing the rates of postage on newspapers; which was received, and read the first time.

The SPEAKER laid before the House a Letter from the Secretary of the Treasury, accompanying his Report, made pursuant to two orders of this House, of the first and second of November last; the first directing the said Secretary to report to the House such information as he may have obtained respecting any difficulties which may have occurred in the execution of the act "repealing, after the last day of June next, the duties heretofore laid upon distilled spirits imported from abroad, and laying others in their stead; and, also, upon spirits distilled within the United States, and for appropriating the same;" together with his opinion thereupon. The second, directing him to report to the House whether any, and what, alterations in favor of the spirits, which shall be distilled from articles of the growth or produce of the United States, or from foreign articles within the same, can, in his opinion, be made in the act for laying duties upon spirits distilled within the United States, consistently with its main design, and with the maintenance of the public faith; which were read, and ordered to lie on the table.

## WEDNESDAY, March 7.

A bill for reducing the rates of postage on newspapers was read the second time, and ordered to be committed to a Committee of the Whole House on Friday next.

A petition of Elizabeth Lovell, relict of Robert Lovell, deceased, was presented to the House and read, praying to receive the depreciation of pay due to her said husband, for his services as a Lieutenant, during the late war.

Mr. PAGE, from the committee appointed, presented a bill to amend the act, entitled "An act for the Encouragement of Learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies, during the times therein mentioned." Also, a bill "to enable John Churchman to prosecute certain observations and discoveries relative to the Northern magnetic point;" which were received and read the first time.

## WIDOWS, ORPHANS, &amp;c.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act for the relief of certain widows, orphans, invalids, and other persons;" and the same being read, some were agreed to, and others disagreed to.

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*Courtesies to France—Georgia Contested Election.*

[H. OF R.]

the President of the United States be requested, in his answer to the said notification, to express the sincere participation of the House in the interests of the French Nation, on this great and important event."

It was resolved in the affirmative—yeas 50, nays 2, as follows:

**YEAS.**—Fisher Ames, John Baptist Ashe, Abraham Baldwin, Benjamin Bourne, Abraham Clark, William Findley, Thomas Fitzsimons, William B. Giles, Nicholas Gilman, Benjamin Goodhue, James Gordon, Andrew Gregg, Thomas Hartley, Daniel Heister, James Hillhouse, Israel Jacobs, Philip Key, Aaron Kitchell, John W. Kittera, John Laurance, Amasa Learned, Richard Bland Lee, Samuel Livermore, Nathaniel Macon, James Madison, John Francis Mercer, William Vans Murray, Nathaniel Niles, John Page, Cornelius C. Schoonmaker, Theodore Sedgwick, Joshua Seney, Jeremiah Smith, Israel Smith, William Smith, John Steele, Samuel Sterrett, Jonathan Sturges, Thos. Sumpter, George Thatcher, Thomas Tredwell, Thomas Tudor Tucker, Abraham Venable, John Vining, Jeremiah Wadsworth, Artemas Ward, Anthony Wayne, Alexander White, Hugh Williamson, and Francis Willis.

**NAYS.**—Robert Barnwell and Egbert Benson.

On the question, that the House do agree to the second part of the said motion, in the words following:

"And their wish that the wisdom and magnanimity displayed in the formation and acceptance of the Constitution, may be rewarded by the most perfect attainment of its object, the permanent happiness of so great a People:"

It was resolved in the affirmative—yeas 35, nays 16, as follows:

**YEAS.**—John Baptist Ashe, Abraham Baldwin, Benjamin Bourne, Abraham Clark, William Findley, Thomas Fitzsimons, William B. Giles, Nicholas Gilman, Andrew Gregg, Thomas Hartley, Daniel Heister, Philip Key, Aaron Kitchell, John W. Kittera, Richard Bland Lee, Nathaniel Macon, James Madison, John Francis Mercer, William Vans Murray, Nathaniel Niles, John Page, Cornelius C. Schoonmaker, Joshua Seney, John Steele, Samuel Sterrett, Jonathan Sturges, Thos. Sumpter, George Thatcher, Thomas Tredwell, Thomas Tudor Tucker, Abraham Venable, John Vining, Anthony Wayne, Alexander White, and Francis Willis.

**NAYS.**—Fisher Ames, Robert Barnwell, Egbert Benson, Benjamin Goodhue, James Gordon, James Hillhouse, Israel Jacobs, John Laurance, Amasa Learned, Sam'l Livermore, Theodore Sedgwick, Jeremiah Smith, Israel Smith, William Smith, Jeremiah Wadsworth, and Artemas Ward.

*Ordered.* That Mr. TUCKER, Mr. MADISON, Mr. MERCER, Mr. VINING, and Mr. PAGE, be appointed a committee to wait on the President of the United States, with the said resolution.

#### GEORGIA CONTESTED ELECTION.

On a motion made and seconded,

"That, in the case of the contested election on the petition of JAMES JACKSON, complaining of an undue election and return of ANTHONY WAYNE, one of the members returned to serve in this House for the State of Georgia, the sitting member have leave to be heard by his Counsel at the bar of this House, on Monday next:"

It was resolved in the affirmative.

MONDAY, March 12.

#### GEORGIA CONTESTED ELECTION.

This being the day to which the trial of the contested election in the case of JAMES JACKSON, complaining of an undue election and return of ANTHONY WAYNE, one of the members returned to serve in this House for the State of Georgia, stood postponed; the House proceeded to take up the same for consideration. Whereupon,

The sitting member, with his Counsel, and the petitioner, being present at the bar of the House, application was made by the Counsel for the sitting member further to postpone the hearing on the said trial until Wednesday se'night. On which application, the parties respectively being fully heard, and the question put thereupon, it passed in the negative.

The petitioner then proceeded to exhibit and read his proofs in support of the allegations of his petition, so far as respects the first article of charge therein contained; when an adjournment being called for,

*Ordered.* That all farther proceeding on the said hearing be postponed until to-morrow.

TUESDAY, March 13.

Mr. TUCKER, from the committee appointed on Saturday last to wait on the President of the United States, with the resolution, of the same day, expressive of the sense of this House of the notification by the King of the French of his acceptance of the Constitution, presented to him in the name of the nation, reported that the committee had discharged the duty assigned to them.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act for an apportionment of Representatives among the several States, according to the first Enumeration, and making provision for another Enumeration and an Apportionment of Representatives thereon, to compose the House of Representatives, after the third day of March, one thousand seven hundred and ninety-seven," with several amendments; to which they desire the concurrence of this House.

#### GEORGIA CONTESTED ELECTION.

The House resumed the hearing on the trial of the contested election, in the case of JAMES JACKSON, complaining of an undue election and return of ANTHONY WAYNE, one of the members returned to serve in this House for the State of Georgia.

Mr. LEWIS (Counsel for Mr. WAYNE) appealed from the charges contained in the petition, in support of the sitting member, and stated reasons why it would be proper in the House to grant a further postponement, which he moved for. The chief arguments were, that there was certain evidence expected by Mr. WAYNE which had not arrived from Savannah.

A debate of two hours took place upon the motion for postponement, which was negatived, 19 members only rising in the affirmative; consequently the trial commenced.



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*Georgia Contested Election.*

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It was opened by a short exordium from Mr. JACKSON, who was allowed to read and comment upon his evidence until past the usual hour of adjournment.

Mr. JACKSON observed that, whilst he acknowledged the unpleasing task of appearing as a prosecutor, and sincerely wished the occasion had never presented itself; and whilst he lamented that so much of the public time which was required to other important objects had been expended, he could not help expressing the satisfaction he felt at the prospect of a decision on the Georgia election; nor could he forbear to observe that the doors of investigation could never be too widely extended on a subject of such capital import, and where the liberties of the people were so materially interested.

One of the greatest advantages, he observed, of a free Government was the right, which every individual of the community possessed, of making the grievances he lay under known; but that what in a private man, where there had been a private injury, was a private right, became, in a public man, where a public grievance or injury to the community had taken place, a public and indispensable duty.

Possessing, therefore, the testimony he did, and being in the situation he was, a candidate at that election, and the person who he believed, had justice been done, ought to have held the seat on that floor, he felt himself called on, in a double capacity, first, as a private individual, to assert his own rights, and, secondly, as a public man, to prevent an injury to the community—silence would have been inexcusable, and he should justly have been charged by his fellow-citizens as the betrayer of the rights of those whom he might most improperly term his constituents. He observed, that it was but a short time since that a period had been put to a Revolution, which, although glorious in its issue, was severe and bloody in its contests.

It was needless for him to remind the honorable House of the groundwork, the cause of that Revolution, where so many of its members had participated in its dangers, and had been distinguished in its conflicts; that it must be well remembered that the avowed principle, the declared right of Britain to bind America in all cases whatsoever, without representation, was the cause. Sir, added he, the right of representation was what America fought for seven long years, for which so many States were desolated, and for which so many heroes fell. Yet, strange as it might appear, scarce half a score of years had passed away ere this right had been violated and trampled on; trampled on ere the blood of our fellow-citizens, spilt in its defence, was as yet scarcely cold, and whilst the vestiges of the Revolutionary War were still exposed to every eye.

To prove this—and, for the honor of human nature, he wished he could not—was the object of his petition, and his appearance at the bar of the House; that, in the prosecution, he wished the House to observe that it was not their favor, but their justice, which he demanded; that the names or merits of the sitting member, or himself, should

not be known on the occasion; and that, for his own part, whatever might be the opinion of the honorable gentleman, of his merits or ability, he had not the vanity to suppose that his being in or out of Congress would affect the interest of America in the smallest degree; but that the question, abstractedly considered, was a question of the greatest magnitude, in which the lives, the liberties, the fortunes, the happiness of the American people, were materially involved; for it could not be denied that they all depended, in a greater or lesser degree, on the representation in that House; that the question was rendered more important by its being the first of its kind, and therefore would become the rule of decision in all future cases.

He then proceeded to state the facts and charges in his petition, and to make a few observations on them; that those observations should be as concise as possible, for he wished to address the House, not as a common jury, liable to be biassed by prejudice, or to be imposed on by quibbles, but as the great guardians of the nation, sitting in a judicial capacity on a great and an important question, and in the decision of which the whole community was concerned.

After stating that he had testimony of another nature, which he had been prevented by the resolution from bringing forward, being tied down to the express articles of charge, which, in the Effingham election, were confined in two points—that of there being more votes than voters, and but one qualified magistrate presiding thereat, he proceeded to the investigation of those charges, and produced the following evidence:

First, the law of the State of Georgia for the election, by which he proved that the State was divided into three districts; that three magistrates were required to open a poll; that the poll was to be opened at nine o'clock on the 3d of January, 1791, and to be continued open until sunset; that the voters within the districts were to meet on the day of election in their respective counties, agreeably to the Constitution, to elect, by ballot, one person for each district, agreeably to proclamation. He then produced the return of the election itself, which proved the charge of there being nine more votes than voters; and, by the signatures of the three persons presiding, it appeared that but one of them had signed as a magistrate. He observed here that he should deem this sufficient if he brought no more evidence, but that he would now produce the testimony of Bell and Hudson, two of the persons acting at that election, to prove that they acted as private individuals, and in no other manner whatever. Mr. Bell's testimony went to prove that, when he arrived at the place of election, he was accosted by Lane, the sheriff of the county, who then first apprised him of his appointment, and persuaded him to sit as a magistrate; that he refused at first, saying he had no right, but afterwards agreed to sit, saying he might as well sit there as any where else; that he refused to sign the return as a magistrate, and that he signed as an individual, and in no other manner; that he was not at that time



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qualified; and, in the cross-examination by Mr. Gibbons, he, on being asked if he had ever acted as a magistrate before that election, answered that he had never acted as a magistrate until that time.

He next produced the testimony of Mr. Hudson, who proved much the same as Mr. Bell; and added, that he found the people intoxicated between ten and eleven o'clock in the forenoon; that Messrs. Gibbons, Moore, and Putnam, residents of Chatham, voted in Effingham; that he gave up his opinion to Mr. Gibbons that the magistrates were not qualified; that a qualification was necessary, he produced the testimony of John Godlieb Meidlinger, clerk of the Superior Court of Effingham county, who proved that he never saw them act as magistrates before; that he did not consider them as magistrates; and that they were qualified in open court after the day of election.

Meidlinger, whose testimony was taken on behalf of the sitting member, likewise proved that the grand jury of the county had presented the election as illegal; indeed, added Mr. JACKSON, a qualification on oath is necessary, and is founded on the justest reasoning. Should not he be qualified on oath, who has the power to qualify on oath? Should not he be bound by some tie, who has the personal liberty and property of his fellow-citizens so greatly at his disposal? "Miserable is that servitude where the law is vague and uncertain," says a law author; but much more miserable, he thought, would be that country where the public and private rights of a community would be at the will of a little despot of a Justice, without any tie, human or Divine. He did not mention this to censure the persons who had signed the return; he knew them to be honest and well intentioned, and they had objected to sitting as magistrates themselves.

It was in Georgia as it was in most other new countries; to prevent greater evils the Government was compelled to appoint characters of this kind; honest and upright persons, who were totally unacquainted with the law; men who generally did well when left to themselves, but who, when worked on by artful and designing persons, such as Lane, the sheriff, who you find by Bell's testimony persuaded him to sit, and that he had a right to do so, although it was the first time he had heard of his appointment. Lyman, the attorney, whom you find informing Hudson, to induce him to sit, that he had spoken to the Governor, who had answered, "It did not make the least odds whether he was qualified or not;" and this person, Gibbons, whose soul is faction, and whose life has been a scene of political corruption; who never could be easy under Government—[Here Mr. JACKSON was called to order.] After apologizing to the House, he observed that he was commenting on facts; that the proofs were strong against Gibbons of abominable corruption; that this corruption was, in a great measure, of his charges; that Gibbons had gone out of his own county, not merely to use an undue influence with the electors, but to corrupt even the magistrates themselves; that it was evident, that when he

worked on those persons they had given up their own opinions; and here he appealed to the evidence of Hudson, who swore that he had objected to Gibbons, Putnam, and Moore, signing the return, but had been prevailed on by Gibbons, and had given up his own opinion to him, as Gibbons was an attorney at law, and he, Hudson, supposing him to know more of these matters than himself.

Mr. JACKSON likewise here appealed to the House whether, if a law had been passed by Congress on elections, Mr. Gibbons's behaviour would not have come under it, and whether an offender of the kind would not have been severely punished; that there would be no safety for the liberties of the people, if such corruptions could be permitted; you find, says he, the electors generally intoxicated by ten or eleven o'clock in the morning; the electors in that situation could not tell who they voted for. Why, he asked, were those individuals so solicitous to get those persons to sit, but that they supposed they would be more docile to their measures, and permit those to vote who had no right to vote?

Hence, he said, your honorable House find Gibbons, Moore, and Putnam, voted in Effingham contrary to the law and Constitution, giving their suffrages. [Here Mr. JACKSON produced the testimony of John Moore, which was objected to by Mr. LEWIS, but on argument it was admitted; who proved that one John King, a minor, had voted. Mr. Moore likewise proved that Gibbons, Lyman, and James Moore, were very active in favor of Mr. WAYNE, and that there were nine more votes than voters; and that Hudson had signed the return at the instigation of Gibbons.] Hence, too, he said, the House might perceive other irregularities, such as magistrates and clerks leaving the poll altogether, and hence, no doubt, the nine more votes than voters. [Here he produced the testimony of Thomas Wyllis, who corroborated the testimony before read very fully, and proved that the poll was sometimes left by the justices and clerks; he further declared that he knew Bell and Hudson not to be qualified magistrates.]

And hence, he observed, the very return itself was drawn up by this Mr. Gibbons; what right had he to interfere with this return? But, notwithstanding all this cunning and corruption of Gibbons, the very return was deficient. Were it not in the same bundle and under the same seal, there would be no knowing whether it was an election for a member of Congress or a member for the State Legislature; whether an election for the office of a coroner, or that of a constable. [He here produced the return, which did not mention what the election was held for, but barely declares that at an election held at Elbertson, in the said county, the candidates were, &c.]

Mr. JACKSON also observed that there was some testimony brought forward by the sitting member, to prove that a Mr. Lavier was a magistrate and a worthy man. Why, he would ask, did he go away? Why did he not sign the return, but that there were some such transactions going forward

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which he could not bring his mind to consent to? Mr. JACKSON made a variety of other observations, which continued until an adjournment was called for. Next day—

Mr. JACKSON proceeded in his observations, and remarked to the House, that some members had been solicitous to see a law of Georgia where a qualification was rendered necessary, previous to a magistrate's entering on the duties of his office; that he had been uncertain yesterday whether he had the law present with him or not; that he now felt himself happy in being able to satisfy those members on that point.

[He here produced the law, and which appeared positively to require the magistrates taking and subscribing the oath therein prescribed, previous to their entering on any official duty.]

Mr. JACKSON then observed that he would, as he was on the Effingham business, beg leave to produce the Constitution of Georgia, to ground what he had advanced yesterday respecting the right of Mr. Gibbons, Mr. Putnam, and Mr. Moore's voting at Effingham. From the 1st section, 4th article of the Constitution of Georgia, it required six months' residence in the county; this he read in his place, and said he considered the grounds of his charges respecting the Effingham return and election so well established, that he would take up no more time of the House on that business.

He observed to the House that the next charge was that of the suppression of the Glynn return; but as the House had been pleased to indulge him in the mode of conducting the prosecution, he would beg the permission to pass over the second, and come to the third charge, that for the county of Camden.

And here he came, he said, to a scene of iniquity indeed, a scene which had improved upon British corruption, and had left ancient and modern story all behind; we read, it is true, of a Roman consul who stole the votes from the forum, to prevent an election of the people, and we have heard of British sheriffs falsifying returns in favor of their friends; but here was a Judge of the land, the great check upon the Executive Department, (and agreeably to the principles of free Government, they ought to be separate and distinct,) acting as the Executive officer, the sacred guardian of the laws, the liberties, and privileges of his fellow-citizens, violating them all, and trampling them beneath his feet; who not only set down more votes than the county had, but added to the polls names which were never known. Here the sacred office of a judge became subservient to the views of party, and the possessor of it the tool of faction; but he forbore, he said, to animadvert on his notorious conduct; he had been tried, impartially tried; he had been convicted, and been punished; and by that punishment the character of his country had been restored. Yes, said he, Georgia, thou hast set an example worthy of thy elder sisters! thou hast hung out a warning to tyranny and its supporters! thou hast set an example which must be respected, and I trust will be followed, in similar circumstances, in the United States, to the end of time.

He would proceed to offer the evidence on the

charges, and he begged leave to assure the House that he would conform as much as possible, in the mode of producing the evidence, to the wishes of some gentlemen yesterday; and the first testimony he would read would be that of Daniel Miller, who was one of the clerks of the check of the poll of Camden, and a necessary officer under the law of Georgia, which he produced, and whereby it appeared that the superintending officers at elections are empowered to appoint three clerks to attend, and to keep three rolls or checks, setting down the names of the voters therein, with the names of the candidates, &c. He observed that it would appear by Miller's testimony that he was one of these clerks; that the check was preserved, and sent on annexed to the testimony; that the whole number of votes at the legal poll was but twenty-five, fifteen for General WAYNE, and ten for himself; that poll was closed agreeably to law, on or about sunset; that he had scarcely daylight to complete the return by which it was made out by him, and signed by the presiding magistrates outside the door; that a person by the name of Allen Thomas was spoken to, to carry the said express to the Governor; that the return was then lodged in his hands for safe keeping until the next day. This testimony Mr. JACKSON read, which further proved that Mr. Osborne had taken the return from Miller, with a promise of returning it in the morning, Miller having been sent for by Osborne in the night; that Mr. Wright, one of the magistrates at the first poll, advised with Mr. Miller, with a proposal of Osborne's of adding the legal and the night election together, and to which Wright, at that time, seemed adverse, but afterwards consented, telling Miller that Osborne had not returned the first or legal return, having made out another more to his mind, having found fault with some of the words of the former, adding that Mr. Osborne was a very good patcher, and that, if it was a measure insupportable, he would not have done it, and that he had given up, as Miller believed, his opinion to the better one of Judge Osborne; Miller's testimony likewise proved that the legal return was suppressed or destroyed. To corroborate the testimony of Miller, Mr. JACKSON observed, that he would produce the testimony of Samuel Smith, the sheriff of Camden county, whose presence at the election was made necessary by law. Mr. Smith proved that he attended the election, performing the duty required of him. Mr. Smith proved that the poll was continued till after sunset; that after the poll was closed, he saw the return made out by one of the clerks appointed to keep the checks; that he saw it signed by the presiding magistrates, viz: Henry Wright, Langley Byan, and Hugh Brown.

That an express was engaged to carry the return to the Governor, and that the number of votes at the said election did not exceed thirty; that the business of the day being concluded, and it being then dark, he returned to his lodgings, two miles distant from the place of election; that some time after he got there, he received a message from Osborne, requesting his return with the people there with him: that he observed to those about



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him that he supposed the business of that day at end, and that he should not return until next morning.

That, when he returned in the morning, he was told that a second poll had been held the evening before, a certified return of which he had seen, containing eighty-nine votes, and that he did not believe that, at that time, there were above seventy persons entitled to vote in the county. That he was well acquainted with Miller, who acted as one of the clerks of the check, and that he was a man of veracity, and well respected.

Mr. JACKSON next produced the testimony of Dr. John M. Scott, one of the surgeons of the first regiment of the United States; a gentleman, he said, who had been as delicate in coming forward as his opposers could wish. It had been with difficulty he had procured his evidence, but Dr. Scott, when he did come forward, had given his testimony to prove that a second or illegal poll had been held. The doctor's evidence set forth that he was in Camden, at the station on St. Mary's, in the month of January, 1791; that he went to the election with some gentlemen in a boat; that on the passage they fell in with Osborne.

That they arrived at Gray's about dark, and that Osborne examined Gray respecting the election, and begged him to come on board and pilot him to the place of election; that Gray showed them the landing, and that a torch was brought them to show them where to land; that, on going up to the house where the election was held, the judge inquired what time the people went away; that it was answered the poll was closed at sundown; that Osborne sent for several of the electors to return, and that the poll was again opened; that the whole number did not exceed twenty; that Mr. Seagrove's name was put down as a voter, but who was not present; that Osborne inquired of Gray the names of those who were not present at the first election, and that their names were likewise set down as voters; that he did not see a ticket or ballot given in; that he asked the judge if this was the common mode of doing business at elections in Georgia, to which Osborne replied to him, Never to mind.

Mr. JACKSON now produced the affidavit of Gray, to which some objections were made by Mr. LEWIS, on behalf of the sitting member, and on which an argument, and reading the statement of the magistrate, was admitted. Gray corroborated the evidence of Dr. Scott in a full manner, and proved the absentees' names being set down to the poll, particularly Seagrove's and Goodbread's.

Mr. JACKSON next brought forward the testimony of Abner Williams, to which objections were likewise made by Mr. LEWIS, that it did not appear to be written in the magistrate's presence: many nice and refined distinctions and reasonings were given, and the testimony was ultimately rejected.

Mr. JACKSON observed that he had other testimony of the same nature from Camden, which, as the House had decided against the testimony of Williams, he should not produce.

From the testimony Mr. JACKSON had produced, he thought he had fully established the iniquity

and illegality of the Camden election, and he begged them to observe the chain of evidence; you find, says he, Miller, a public officer, doing his duty at the election, who swears that the legal poll consisted but of twenty-five votes, that fifteen were for Mr. WAYNE, and ten for himself; you find the poll was closed at sundown, agreeably to law; you find that Miller had scarcely daylight to complete the return by; you find that presiding magistrates, on that account, signed the return outside the door; you find the return delivered to Miller for safe keeping, and you find an express applied to; you find the number from Smith's testimony, who was the sheriff of the county, and a necessary officer at the poll, corroborating the testimony of Miller, that the number of votes did not exceed thirty; an express was absolutely engaged to carry the return to the Governor, and that after the law had been complied with, the electors had generally dispersed; you next find, by the testimony of Dr. Scott and Gray, the arrival of Mr. Osborne after dark, that a torch was brought to show them the landing; you find him sending again for the people, and here you observe the answer of the sheriff, that the business of that day was at an end, and he should not return: notwithstanding this caution, you view, from their evidence, Osborne proceeding to a second election, and setting down absentees' names, who were not present at the first poll, and among them James Seagrove and Philip Goodbread. You find here the question of Dr. Scott, Is this the mode of conducting business at elections in Georgia? Why that question, said he, but that the honest dictates of a virtuous heart spurned at such abominable villany. Mark the answer of this iniquitous judge, "You never mind." Evasion, dark, designing evasion, which carried guilt in its countenance; he dared not explain; the deed would not bear the light. Shall we rest here a moment, said he, and search whence this right of proxy? Is it found in the laws or the Constitution of the Continent? Is it expressed in the laws or the Constitution of Georgia? Is it to be met with in any of the laws or Constitutions of the respective States? In France it is exploded; in England it is only admitted to the Lords, whose right is hereditary; in no free country on earth, said he, is this right established. Shall the United States then be the first to sanction this pernicious principle? Shall she who has lighted up the flame of liberty in other nations, who has astonished the universe, and loosened the trammels on the rights of men, be the first to nourish this tyrannic vulture in her bosom? View how far it leads, see how far it extends, and there is not a freeman who hears me, but must fire with indignation at the attempt. If admitted to one, shall we stop there? Shall we stop at ten, at twenty, at one hundred, or one hundred thousand? Shall we stop at a township, a county, a district, or a State? Sir, the glory of our Constitution is that our rights are equal; and if one citizen may be permitted to vote by proxy, the whole rights of the community may be in like manner delegated, and the consequence might be, that a Dionysius or a Nero might be palmed upon us by authority. He



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did not like to be severe; he would repress what he felt, out of respect to the House; but with what view did this wicked judge come to that election? He was not actuated by a love of country, for his attempts, if successful, would have damned its liberty; not acting as a magistrate, because, as a magistrate, he was bound by the law, but here he was barefacedly breaking it; but, void of principle, and, from his character, he believed he never possessed any; regardless of oaths, and worked on by prejudice and party, he came there at all events, and by any means, however base or abominable, to prevent his being elected.

Let it be remembered, sir, if this can obtain in Georgia, it can in other States, and the corruption will be general. But, supposing there is right of proxy admitted, he would produce the census of Georgia, under the official signature of the Secretary of State, taken by the marshal of the district of Georgia, whereby it would appear that the whole number of male inhabitants consisted of but eighty-one persons; here were eight more votes than the whole contained, and sixty-four more than the legal poll; but admit, said he, that there are as many voters as the return mentions, is it not extraordinary that, whilst other counties have polled but one-half, and some not one-fourth of its citizens, this county should have every elector attending? But let us take the two elections, said he, and add them together, and how will they then stand, as appears by the testimony before the House? Dr. Scott swears there were not more than twenty persons at the second election. Twenty, therefore, at the second election, and twenty-five at the first election, are but forty-five, so that forty-four votes are still wanting, at the utmost extent; but, take Gray's testimony, and this deficiency is much greater. [Mr. GILES here asked the question, whether the eighty-one male persons, returned by the census, were the persons above the age of 16 or 21?] Mr. JACKSON, after thanking the honorable gentleman for the question, as it had escaped him in observation, said that the eighty-one were the free males above 16, so that one-fifth of those, which was the nearest proportion, ought to be deducted for those between 16 and 21, and which would bring it to sixty-five, which number was corroborated by the testimony of Smith, the sheriff, who had sworn that the whole number of voters did not exceed, at that time, the amount of seventy. He observed that the testimony of Smith must be of weight, for he was the sheriff of the county, who knew, or must be supposed to know, all the residents, who summoned all jurors, and served all judicial processes.

Mr. JACKSON here begged leave to offer a statement he had made out, not as testimony, but to assist the minds of the House of those particular elections, and in the particular views in which they might be received.

[Here follows a statement of the polls in the different counties. Mr. BARNWELL here interrupted Mr. JACKSON, as did also Mr. BENSON, by opposing the reading of any calculation; but Mr. MADISON insisted that the petitioner had a right to state the numbers at the different polls.]

Mr. J. then proceeded, by observing that he should now close his evidence and observations on the Camden election; he thought he had perfectly established his charges on this head, as well as on the Effingham election; he had proved that the legal return had been suppressed, and that the second election had been illegal altogether.

He would now proceed to the last article of charge, the Glynn return, and here he should offer the testimony of Colonel Samuel Hammond, a gentleman of the greatest veracity, who would prove—[Here Mr. JACKSON was called on by Mr. LEWIS to produce the evidence, and was desired not to inform the House of the contents of the testimony.]

Mr. LEWIS objected to Colonel Hammond's evidence, on the grounds he had formerly made to the testimony of Williams, and, on argument, it was finally rejected.

Mr. JACKSON here observed that it was not for him to do otherwise than suppose that the decision of the House was proper, however hard it might bear on him, which, he must be permitted to say, it did; that, however, by the failure of the receipt of this testimony, his charge must fall to the ground, as the evidence of Hammond was the principal ground on which he rested his charge, and that he must, therefore, decline bringing forward the other testimonies relating to this business before the House.

He said he felt himself now bound in duty to produce to the House the decision of the State of Georgia on the impeachment of Judge Osborne, and he did not produce it without an expectation of its being objected to; but he begged leave to offer some reasons why it should be received.

Baron Gilbert, in his excellent treatise on evidence, had quoted Mr. Locke, to prove that the degrees of evidence were various, and that they extended from perfect certainty and demonstration, quite down to improbability and unlikeliness, even to the confines of impossibility. Perfect certainty was defined to be a clear and distinct perception with one's own senses; probabilities, on which, in a greater or lesser degree, all other evidence rested, consisted of obscure views, or what was seen or heard by the report of others. The first kind of evidence was not in the power of the House, because none of the facts alleged were within their views; but they were compelled to, and did, by their resolutions, depend on the second kind of evidence, or what was heard by the report of others in Georgia. The House, in receiving the testimony offered, would receive evidence taken at least on as careful grounds as that taken under the resolutions; the facts were the same; the point at issue was the same, whether corruption had or had not taken place at this election; the person accused was present, with his attorneys, to cross-examine; two of the attorneys of the sitting member were employed as counsel, on that occasion, for Mr. Osborne, and one of them actually cross-examined the evidence; it must therefore be supposed that, from the exalted station of that gentleman, every industry would be used, every exertion be made by them,

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as well to clear the character of their client in Georgia as to establish the right of the sitting member here. It was, he said, a decision of the highest court of the State of Georgia, founded on an express article of the Constitution—a court having competent jurisdiction to decide, and an authority which the members of that State here were not only called on to acknowledge, but to respect. A decision of faction, he said, it could not be supposed, for whoever heard of a unanimous faction? Faction signified a party in a State; here was a political phenomenon, which did not happen in a political age—a whole people of one way of thinking—a House of Representatives unanimously convicting. How, he asked, should the voice of the people be known? Here were but two ways: by petition from the people at large, or by the declared sense of the Legislature. If he had taken the former, would not the gentleman have come forward to object to it? Would not there have been room to charge him with undue influence in procuring it? The voice of the people, therefore, would be best known by the Legislature of the State; for, notwithstanding the nice-spun sophistry of the day, he could not distinguish between the people and the State. Who was the State, but the society which compose it? Who, then, were the people, but the State? Would Congress, then, not receive the sense of the State of Georgia? Would they hush that voice which says we are not represented? Would not the world perceive how short-lived Republican virtues were, and the British King behold acts for which they had denominated him a tyrant? The Government was founded on the basis of the States and people; and, at least, a decent respect should be so far paid them as to receive their complaints. If it be said that Congress have the sole power of judging of the returns, elections, and qualifications of its own members, without denying this position, he would beg leave to observe, there were powers delegated by the Constitution which were not exclusive; that a power was given to the States to prescribe the times, manner, and place, for holding the elections, but Congress might alter those regulations. Here, then, was a right in Congress which was not exercised; the States were in the exercise of this power; every member in the House had been elected under State laws; the State officers executed the laws; and who had the cognizance of their malfeasance but the States under whom those officers held their appointments? Besides, who, he asked, could so well detect corruption as the States, who were so much interested to do it? Could Congress detect this corruption? Would individuals hazard their lives and fortunes, at the end of every election, to attend Congress to inform them of it? Would Congress establish inquisitions in the respective States to find it out? Would the people of America submit to inquisitions? Had Congress the power to compel evidence to attend? Where was their law—where their compulsory process? He had seen neither. But, suppose all this got over, and corruption detected, can Congress punish the authors of it?

Here, again, he would ask for their law, their power to do so; and even then, could they dismiss the State officers convicted of corruption? Sir, added he, could the united wisdom of this House have removed Mr. Osborne from the bench of Georgia? Secure in his seat, he would have minded the fulminations of Congress no more than the fulminations of the Court of Rome.

But, he supposed, it would be objected to on another ground, that it was not agreeable to the strict rules of law, and therefore inadmissible, as the parties were not the same. Although he admitted, in some degree, that the doctrine might hold, yet still it was not unfrequently allowed to admit decisions in other courts, on trials between other parties. Thus, for instance, a sentence of a court of admiralty, where goods had been condemned in a case of piracy, was admitted, as evidence, in a court of common law, in action of trover. A sentence, in an ecclesiastical court, was admitted as evidence of the right to the thing there decreed. A decree in chancery was not usually admitted at common law. And he recollected one strong case, where a judgment of ouster against the bailiffs of a corporation was admitted as evidence against the person claiming a title under their election. This last case was precisely in point, and he begged leave to impress it on the House, and the sitting member claiming under the return of Mr. Osborne. He acknowledged the advantage the learned counsel had of him here, having his books to resort to, but he did not mean to rest fully on those cases, because he conceived the House bound by their own laws, and not by the laws of any inferior court; but where could be the danger of admitting it? Were the House a common jury, liable to be imposed on by artifice, or biassed by prejudice, they could not examine the evidence, reject what ought to be rejected, and suffer that to impress them which ought to impress them.

Here Mr. Lewis objected to the admission of these papers, and was astonished that they should be offered to the House. He argued that the impeachment of Judge Osborne was unconnected with the business in question; that it was altogether *ex parte*, and therefore hoped the House would reject it, and not suffer the proceedings of the State of Georgia, dignified as it was, to influence Congress in a matter which was entirely within their own jurisdiction.

The House refused to receive them. Whereupon the farther hearing on the said trial was adjourned until to-morrow.

WEDNESDAY, March 14.

A message from the Senate informed the House that the Senate insist on their amendments to the bill entitled "An act to ascertain and regulate the claims to half-pay and to invalid pensions," and have made a farther amendment to the said bill; to which they desire the concurrence of this House.

GEORGIA CONTESTED ELECTION.

The House resumed the hearing on the contested election in the case of JAMES JACKSON, com-



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plaining of an undue election and return of ANTHONY WAYNE, one of the members returned to serve in this House for the State of Georgia; and application in writing having been made by the petitioner as follows:

"That the decision of the Senate of the State of Georgia, on the impeachment of Judge Osborne, so far as respects the Camden return for a member to represent the State of Georgia, on the 3d day of January, 1791, be received as evidence in the present trial of that election, to establish the corruption of Judge Osborne."

As well the petitioner as the sitting member, by his Counsel, were fully heard on the subject of the said application; and the question being taken, that the House do agree to the same, it was passed in the negative—yeas 20, nays 41, as follows:

YEAS.—John Baptist Ashe, Abraham Baldwin, Elias Boudinot, Abraham Clark, Elbridge Gerry, William B. Giles, Andrew Gregg, William Barry Grove, Daniel Heister, Israel Jacobs, Philip Key, Aaron Kitchell, Nathaniel Macon, Cornelius C. Schoonmaker, John Steele, Thomas Sumpter, George Thatcher, Thomas Tredwell, Thomas Tudor Tucker, and Francis Willis.

NAYS.—Fisher Ames, Robert Barnwell, Egbert Benson, Shearjashub Bourne, Benjamin Bourne, John Brown, William Findley, Thomas Fitzsimons, Nicholas Gilman, Benjamin Goodhue, Samuel Griffin, Thomas Hartley, James Hillhouse, Daniel Huger, John W. Kitters, John Laurance, Amasa Learned, Richard Bland Lee, Samuel Livermore, James Madison, John Francis Mercer, Andrew Moore, Frederick Augustus Muhlenberg, William Vans Murray, Nathaniel Niles, John Page, Josiah Parker, Theodore Sedgwick, Joshua Seney, Jeremiah Smith, Israel Smith, William Smith, Samuel Sterrett, Jonathan Sturges, Peter Sylvester, Abraham Venable, John Vining, Jeremiah Wadsworth, Artemas Ward, Alexander White, and Hugh Williamson.

The petitioner then proceeded to conclude with the exhibits and proofs in support of the remaining charges of his petition, after which, the sitting member, by his Counsel, entered into the defence, and produced sundry exhibits and proofs in opposition to the said charges; and having made some progress therein, an adjournment was called for. Whereupon,

*Ordered*, That the farther hearing on the said trial be postponed until to-morrow.

THURSDAY, March 15.

A message from the Senate informed the House that the Senate have passed the bill entitled "An act declaring the consent of Congress to a certain act of the State of Maryland, and to continue for a longer time an act declaring the assent of Congress to certain acts of the States of Maryland, Georgia, and Rhode Island and Providence Plantations," so far as the same respects the States of Georgia and Rhode Island and Providence Plantations.

#### GEORGIA CONTESTED ELECTION.

The House resumed the hearing on the contested election, in the case of the petition of JAMES JACKSON, complaining of an undue election and return of ANTHONY WAYNE, one of the members

returned to serve in this House for the State of Georgia; and the Counsel for the sitting member having concluded his defence, the petitioner was heard in reply; after which, the parties retired from the bar.

A motion was then made and seconded,

"That certain proceedings of the House of Representatives of the State of Georgia, accompanied with other papers, transmitted agreeably to their resolution, under the signature of the Governor and the seal of the State, relative to the election of a member to represent the Eastern District of the said State in this House, be received."

On which motion, the previous question being called for by five members, to wit: "Shall the main question to agree to the said motion be now put?" it passed in the negative, and so the said motion was lost.

An adjournment was then called for and carried.

FRIDAY, March 16.

The House proceeded to a decision on the contested election in the case of the petition of JAMES JACKSON, complaining of an undue election and return of ANTHONY WAYNE, one of the members returned to serve in this House for the State of Georgia; and, after debate thereon, a motion being made and seconded that the House do agree to the following resolution:

*Resolved*, That ANTHONY WAYNE was not duly elected a Member of this House."

It was unanimously resolved in the affirmative, by yeas and nays, every member present voting in the affirmative.

Another motion was then made and seconded, "That the SPEAKER do transmit a copy of the said vote to the Executive of the State of Georgia;" and, debate arising thereon,

*Ordered*, That all farther decision on the said contested election be postponed until Monday next.

Mr. BOURNE, of Rhode Island, from the committee to whom was referred the report of the Secretary of the Treasury on the petitions of the Commissioners of Loans for the States of New Hampshire and Rhode Island and Providence Plantations, made a report; which was read, and ordered to be committed to a Committee of the Whole House on Tuesday next.

The House proceeded to consider the amendments of the Senate, disagreed to by this House, and insisted on by the Senate, to the bill entitled "An act to ascertain and regulate the claims to half-pay and to invalid pensions." Whereupon,

*Resolved*, That this House doth recede from their disagreement to the said amendments, and doth agree to all the amendments of the Senate to the said bill.

*Ordered*, That the Clerk of this House do acquaint the Senate therewith.

*Ordered*, That the Report of the Secretary of the Treasury, relative to the act entitled "An act repealing, after the last day of June next, the duties heretofore laid upon distilled spirits imported



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from abroad, and laying others in their stead; and also, upon spirits distilled within the United States, and for appropriating the same," which was made to this House on Tuesday, the 6th instant, be committed to a Committee of the Whole House on Tuesday next.

SATURDAY, March 17.

The SPEAKER laid before the House a Letter from the Secretary of the Treasury, accompanying his report on the petition of the Ministers and Trustees of the Lutheran church in Rheland township, Chester county, in the State of Pennsylvania; also, on the petition of the Wardens of the Calvinist church, in Vincent township, in the county and State aforesaid; and on the petition of the Corporation of Trustees of the public Grammar school and Academy of Wilmington, in the State of Delaware; which was read, and ordered to lie on the table.

The SPEAKER laid before the House a Letter from the Secretary of the Treasury, accompanying his report concerning the additional supplies requisite for the ensuing year, made pursuant to a resolution of the House of the 8th instant; which was read, and ordered to be committed to a Committee of the Whole House on Friday next.

The SPEAKER laid before the House a Letter from the Attorney General of the United States, enclosing his report on the petition of Andrew Jackson; which was read, and ordered to lie on the table.

*Ordered*, That a committee be appointed to prepare and bring in a bill or bills to amend an act entitled "An act to provide more effectually for the collection of duties on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships or vessels," so far as to permit the landing of salt, under certain regulations, at warehouses belonging to the several fisheries, and to allow a drawback on the exportation of salted provisions equal to the duty that is paid on the salt used in preserving the same; and that Mr. WILLIAMSON, Mr. KEY, and Mr. PARKER, be the said committee.

#### APPORTIONMENT BILL.

The House proceeded to consider the amendments proposed by the Senate to the bill entitled "An act for the Apportionment of Representatives among the several States, according to the first Enumeration, and making provision for another Enumeration, and an Apportionment of Representatives thereon, to compose the House of Representatives, after the 3d day of March, 1797." Whereupon, the first amendment being read, and the question put, that this House doth agree to the same, as follows:

Section first, between the words "of" and "members," insert "one hundred and twenty:"

It passed in the negative—yeas 30, nays 31, as follows:

YEAS.—Fisher Ames, Egbert Benson, Elias Boudinot, Shearjashub Bourne, Benjamin Bourne, Abraham

Clark, Thomas Fitzsimons, Elbridge Gerry, Nicholas Gilman, Benjamin Goodhue, James Gordon, Thomas Hartley, Israel Jacobs, Aaron Kitchell, John W. Kittera, John Laurance, Amasa Learned, Samuel Livermore, Nathaniel Niles, Cornelius C. Schoonmaker, Theodore Sedgwick, Jeremiah Smith, Israel Smith, John Steele, Peter Sylvester, George Thatcher, Thomas Tredwell, John Vining, and Jeremiah Wadsworth.

NAYS.—John Baptist Ashe, Abraham Baldwin, Robert Barnwell, John Brown, William Findley, William B. Giles, Andrew Gregg, Samuel Griffin, William Barry Grove, Daniel Heister, James Hillhouse, Daniel Huger, Philip Key, Richard Bland Lee, Nathaniel Macon, James Madison, John Francis Mercer, Andrew Moore, Frederick Augustus Muhlenberg, John Page, Josiah Parker, Joshua Seney, William Smith, Samuel Sterrett, Jonathan Sturges, Thomas Sumpter, Thomas Tudor Tucker, Abraham Venable, Alexander White, Hugh Williamson, and Francis Willis.

The other amendments of the Senate to the said bill were then severally read; and, on the question put thereupon, disagreed to by the House.

*Resolved*, That a conference be desired with the Senate on the subject-matter of the said amendments; and that Mr. MADISON, Mr. FINDLEY, Mr. HILLHOUSE, Mr. SMITH, of South Carolina, and Mr. BALDWIN, be appointed managers at the said conference, on the part of this House.

MONDAY, March 19.

A petition of John Macpherson, setting forth that he has discovered an infallible method of ascertaining the longitude, to a degree of precision far beyond any former discovery; and praying that Congress will enable him to prove his theory by experiments in a voyage to France.

*Ordered*, That the said petition do lie on the table.

A message from the Senate informed the House that the Senate agree to the conference proposed by this House, on the subject-matter of the amendments disagreed to by this House to the bill entitled "An act for an Apportionment of Representatives among the several States, according to the first Enumeration, and making provision for another Enumeration and an Apportionment of Representatives thereon, to compose the House of Representatives after the 3d day of March, 1797," and have appointed managers at the said conference on their part. The Senate recede from some, and insist on other of their amendments disagreed to by this House to the bill entitled "An act for the relief of certain widows, orphans, invalids, and other persons." The Senate have also passed a bill entitled "An act to erect a lighthouse on Montauk Point, in the State of New York;" to which they desire the concurrence of this House.

A message from the Senate informed the House that the Senate have passed the bill entitled "An act providing for the settlement of the claims of persons under particular circumstances barred by the limitations heretofore established," with several amendments; to which they desire the concurrence of this House.

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## GEORGIA CONTESTED ELECTION.

The House then resumed the consideration of a further decision on the contested election, in the case of the petition of JAMES JACKSON, complaining of an undue election and return of ANTHONY WAYNE, one of the members returned to serve in this House for the State of Georgia; and, a motion being made and seconded, that the House do come to the following resolution:

"Resolved, That the petitioner, JAMES JACKSON, is entitled to a seat in this House, as a member for the lower district of the State of Georgia; and that the right of petitioning against the election of the said JAMES JACKSON be reserved to all persons, at any time during the term for which he was elected."

Debate thereon ensued; when an adjournment being called for, the several orders of the day were further postponed until to-morrow.

TUESDAY, March 20.

A bill sent from the Senate, entitled "An act to erect a light-house on Montauk Point, in the State of New York," was read twice and committed.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act providing for the settlement of the claims of persons, under particular circumstances, barred by the limitations heretofore established;" and the same being read, were agreed to.

The House proceeded to reconsider the amendments proposed by the Senate to the bill, entitled "An act for the relief of certain widows, orphans, invalids, and other persons," which were disagreed to by this House and insisted on by the Senate; whereupon,

Resolved, That this House doth recede from their disagreements to the said amendments, and doth agree to the same.

## GEORGIA CONTESTED ELECTION.

The House resumed the consideration of the motion made yesterday, on the contested election in the case of the petition of JAMES JACKSON, complaining of an undue election and return of ANTHONY WAYNE, one of the members returned to serve in this House for the State of Georgia.

Mr. W. SMITH proposed the following resolution, viz:

"That the seat of ANTHONY WAYNE, as a member of this House, is vacant; and that notice be served on the Executive of the State of Georgia, in order that he may issue a writ for a new election."

This motion was objected to as not being sufficiently comprehensive to express the sense of the House. On the contrary, it seemed to be intended to prevent the introduction of a resolution which was proposed by Mr. GILES, viz:

"Resolved, That James Jackson is entitled to a seat in this House."

To both of those motions several amendments, substitutes, &c., were proposed; and Mr. GILES's motion was modified so as to read thus:

"Resolved, That JAMES JACKSON is duly elected, and, therefore, entitled to a seat in this House."

Mr. GILES supported this motion by a train of judicious and well applied arguments, drawn from the precedents of the British Government; he particularly mentioned the Middlesex election, when Mr. Wilkes was expelled the House of Commons, for having been tried and found guilty of an abominable libel; in which case a writ for a new election was issued, because there was not then any other candidate: but when afterwards there was a candidate set up against Mr. Wilkes, the House of Commons did not order a new writ to issue, they declared the other candidate duly elected, having previously decided that Mr. Wilkes was ineligible to a seat in the House. This, although it may not be reckoned exactly a case in point, comes something near to the Georgia election; and from this and a variety of other cases, which Mr. G. quoted, he thought the House would be highly justifiable in declaring Mr. JACKSON duly elected, and therefore entitled to a seat in the House of Representatives. Mr. G. further observed, that the consequence of not agreeing to the resolution he had the honor to propose, would be a disavowal of the right of the judicial powers of the House in cases where they were to decide on the qualifications of their own members; and it would be transferring those powers to the Executives of the States, if Mr. SMITH's motion should obtain.

Mr. W. SMITH rose to oppose Mr. GILES's motion, and entered into a very extensive chain of argument on the rights of election, the powers of Congress, the danger of foreclosing the chair of the sitting member, should he desire to impeach the validity of the petitioner's election; the want of reciprocity that would ensue from an adoption of the resolution; the danger of so bad a precedent; the deprivation of the rights of Georgia to hold a new election to fill the vacancy, &c., &c. He also quoted almost all the cases of contested elections in Great Britain, and drew inferences from each in favor of his own opinion. He said the business before the House was not to take cognizance of Mr. JACKSON's right to a seat, it had been no more than to investigate the legality of Mr. WAYNE's seat, which was now decided in the negative; it was not a contest between Mr. WAYNE and Mr. JACKSON, but an inquiry into a return.

Mr. GILES proposed to amend his motion, by adding these words, "and that the right of petitioning against the said election (of JAMES JACKSON) be preserved to all persons, &c., within the time for which he was elected."

Mr. MADISON replied generally to all the reasoning of the gentlemen who had gone before him in this business; he mentioned the general rule, that whosoever had a majority of sound votes was the legal Representative; he then recited the several exceptions to this rule, and expatiated on the *lex parliamentaria*. In addition to the cases quoted by Mr. GILES and Mr. W. SMITH, he mentioned one wherein corruption appeared in both candidates, and the seat was adjudged to him who had the greatest number of sound votes; but this, he said, was not a case exactly in point: he therefore believed it would be necessary to decide the present one agreeably to the Constitution and



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right reason. He had ventured an opinion formerly upon an occasion of this kind, and he would now confess that if the House could, conformably to reason, precedents, or convenience, admit the petitioning member to a seat, he believed that they ought to do it, in order to fill up the chasm in the House, so far as relates to the representation and interest of the State of Georgia. He differed in opinion with those who had argued that the petitioner had not claimed his seat; and even admitting he had done so, or that he would resign or refuse to accept it, still the House are bound to declare and establish his right.

The House now adjourned.

WEDNESDAY, March 21.

A petition of sundry merchants of the State of Rhode Island, trading to India and China, was presented to the House and read, praying that teas imported from Europe in vessels the property of citizens of the United States, may be subjected to the same duties and regulations as teas imported from India in vessels belonging to citizens of the United States. *Ordered*, that the said petition be referred to the Committee of the Whole House on the state of the Union.

*Ordered*, That the report of the Attorney General on the petition of Andrew Jackson, be committed to Mr. CLARK, Mr. STEELE, and Mr. LIVERMORE.

*Ordered*, That the Message, of yesterday, from the President of the United States, be committed to Mr. WHITE, Mr. LAURANCE, and Mr. SMITH, of South Carolina, with instructions to report thereon by way of bill or bills.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act for fixing the compensation of the Doorkeepers of the Senate and House of Representatives in Congress;" to which they desire the concurrence of this House.

#### GEORGIA CONTESTED ELECTION.

The House resumed the consideration of the motion on the contested election in the case of the petition of JAMES JACKSON, complaining of an undue election and return of ANTHONY WAYNE, one of the members returned to serve in this House for the State of Georgia.

Mr. BOUDINOT rose to deliver his opinion; previous to which, he thought proper to recapitulate most of the circumstances which have come into view, before the House, from the time of receiving Mr. JACKSON's petition to the present time, of declaring whether he is, or is not, entitled to the seat in the House of Representatives. He took particular notice that there were only two candidates for the lower district of Georgia; no third candidate had been set up. Hence, as there were only two, and one of them has been proved to be illegally elected, it remains to be decided whether the other be entitled to his seat. He observed, that in three of the counties the whole of their elections were null and void; and that, with respect to the others, all the evidence which would be

necessary to an investigation had not been yet before the House, as no other evidence had been adduced but such as was thought necessary to vacate the contested seat; consequently, the evidence admitted in one case cannot be admitted in the other; and if Congress proceed in the question now under consideration, they must do it without the cognizance of Georgia, and without any return by them made in favor of the petitioner. Besides, it will be doing an essential injury to the sitting member, should it appear that he had a majority of votes exclusive of all the illegal ones, as it will be precluding him from all redress, to declare the petitioner the sitting member.

Mr. B. also quoted the case of the Maryland election of Mr. PINKNEY, who had resigned; yet the next candidate in number of votes was not declared; a new election was held. Upon the whole, after considerable time spent in reasoning nearly on similar grounds with those of Mr. W. SMITH, he concluded by declaring that he was apprehensive the House would be acting rather precariously should they attempt any decision at present on the resolution proposed.

Here Mr. BOUDINOT proposed to read a paper in his place, containing information which he said was necessary to support the opinions he had advanced, and which paper went to prove that there was not a majority of votes in favor of the petitioner after deducting the illegal votes. Several members opposed the reading of these papers, and some asked why these papers had not been produced on the trial? To this it was replied by Mr. W. SMITH, that this testimony was not then necessary; it was also observed, that in case Mr. WAYNE's testimony should prove so many illegal votes against Mr. JACKSON, that, after all the bad votes were left out on both sides, it should appear that Mr. WAYNE had a majority notwithstanding, the House would be driven into a dilemma, for it might be demanded of them to declare his election legal after the House had already declared it illegal. Under these circumstances, it was judged improper to produce the evidence proposed to be read by Mr. BOUDINOT; and he accordingly withdrew it, and proceeded to make some further observations on the impropriety of agreeing to the motion under consideration.

Mr. LIVERMORE expressed some regret at the situation into which the House was driven in this business. He quoted the election laws of Britain, and drew several inferences therefrom, as the only precedents that could enable Congress to form a judgment. He also observed that special regard ought to be paid to the election law of Georgia. From the whole of his arguments, it appeared that unless a majority of votes in favor of Mr. JACKSON had been returned to the Governor, and from him transmitted officially to the Speaker, &c., he could not suppose him entitled to a seat.

Mr. HILLHOUSE was of opinion that, until such time as Congress enacted a law for regulating elections, there was no other rule to go by than the laws of the States; under this impression, he joined in opinion with Mr. LIVERMORE.

The question being now taken that this House



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doth agree to the said motion, amended to read as follows:

*Resolved*, That JAMES JACKSON is entitled to take a seat in this House, and that the right of petitioning against the election of the said JAMES JACKSON, be reserved to all persons, at any time during the term for which he was elected:”

It passed in the negative—yeas 29, nays 29—the House being equally divided.

And Mr. SPEAKER declaring himself with the nays—the yeas and nays, as demanded by one-fifth of the members present, were as follows:

YEAS.—John Baptist Ashe, Abraham Baldwin, John Brown, Abraham Clark, William Findley, Elbridge Gerry, William B. Giles, Andrew Gregg, Samuel Griffin, William Barry Grove, Daniel Heister, Israel Jacobs, Richard Bland Lee, Nathaniel Macon, James Madison, Andrew Moore, Nathaniel Niles, John Page, Josiah Parker, Cornelius C. Schoonmaker, Joshua Seney, Jeremiah Smith, Samuel Sterrett, Jonathan Sturges, Thomas Sumpter, Thomas Tredwell, Abraham Venable, and Francis Willis.

NAYS.—Fisher Ames, Robert Barnwell, Egbert Benson, Elias Boudinot, Shearjashub Bourne, Benjamin Bourne, Thomas Fitzsimons, Nicholas Gilman, Benjamin Goodhue, James Gordon, Thomas Hartley, James Hillhouse, Daniel Huger, Philip Key, Aaron Kitchell, John W. Kittera, John Laurance, Amasa Learned, Samuel Livermore, Frederick Augustus Muhlenberg, Theodore Sedgwick, William Smith, John Steele, Peter Sylvester, George Thatcher, Thomas Tudor Tucker, Jeremiah Wadsworth, Artemas Ward, and Alexander White.

*Resolved*, That the seat of ANTHONY WAYNE, as a member of this House, is, and the same is declared to be, vacant.

*Ordered*, That the SPEAKER transmit a copy of the preceding resolution, and of this order, to the Executive of the State of Georgia, to the end that the said Executive may issue writs of election to fill the said vacancy.

#### THURSDAY, March 22.

A memorial of sundry public creditors, who loaned money to the United States between September, 1777, and March, 1778, was presented to the House and read, praying that the modification of their claims, suggested in the Report of the Secretary of the Treasury, made to the present session on the subject of the public debt, may be adopted. Referred to the Committee of the Whole House on the Report of the Secretary of the Treasury on the Public Debt.

The bill sent from the Senate, entitled “An act for fixing the compensations of the Doorkeepers of the Senate and House of Representatives in Congress,” was read the first time.

The House resolved itself into a Committee of the Whole House, on the Report of the Secretary of the Treasury, on the subject of the Public Debt; and, after some time spent therein, the Committee rose, and had leave to sit again.

Mr. WILLIAMSON, from the committee appointed, presented a bill for ascertaining the bounds of a tract of land purchased by John Cleves Symmes; which was received, read twice, and committed.

Mr. SMITH, of South Carolina, from the committee to whom was referred the petition of Henry Laurens, made a report; which was read, and ordered to lie on the table.

Mr. LIVERMORE, from the committee to whom was referred the petition of George Turner, one of the Judges of the Territory Northwest of the River Ohio, made a report; which was read, and ordered to lie on the table.

The SPEAKER laid before the House a Letter from the Secretary of State, on the subject of a report on the commerce and navigation of the United States with foreign nations; which was read, and ordered to lie on the table.

A memorial of Benjamin Stiles, in behalf of himself and his associates, was presented to the House and read, praying that the contract between the United States and John Cleves Symmes may be so far varied, as to include the purchase made by the memorialist and his associates of the said Symmes, and to quiet them in their title and possession of the same.

*Ordered*, That the said memorial do lie on the table.

The House resolved itself into a Committee of the Whole House, on the report of the committee to whom was referred the memorial of the Directors of the Ohio Company of Associates; and, after some time spent therein, the Committee rose, and had leave to sit again.

Mr. MADISON, from the managers appointed on the part of this House, to attend a conference with the Senate on the subject-matter of the amendments depending between the two Houses, to the bill, entitled “An act for an Apportionment of Representatives among the several States according to the first Enumeration, and making provision for another Enumeration, and an Apportionment of Representatives thereon, to compose the House of Representatives, after the 3d day of March, 1797,” reported that the managers had, according to order, attended to that duty, and that, after offering the reasons for disagreement on the part of this House, and hearing those which were offered by the managers on the part of the Senate in answer thereto, several propositions, offered by the managers on the part of this House, for accommodating the said disagreement, not being acceded to by the managers on the part of the Senate, they had mutually determined to separate from the said conference without agreement.

A message from the Senate informed the House, that the Senate insist on their amendments disagreed to by this House to the bill, entitled “An act for an Apportionment of Representatives among the several States according to the first Enumeration, and making provision for another Enumeration, and an Apportionment of Representatives thereon, to compose the House of Representatives after the 3d day of March, 1797.”

#### FRIDAY, March 23.

The House proceeded to consider the report of the committee to whom was referred the petition of George Turner, one of the Judges of the Ter-

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country against the cabals, the corruption, and animosities, which might be excited by the intrigues of ambitious men, animated with the hope of handing their names down to the latest ages on the medals of their country. But this indiscriminate honor is unworthy of the President's acceptance. A Nero, a Caligula, a Heliogabalus, it has been observed, [by Mr. MERCER.] may enjoy it as well as a Trajan. To apply it to the present Chief Magistrate, alone, would be less exceptionable. But this would be highly improper; for, if he should pass an act for this purpose, it might blast his reputation. I am of opinion that the Senate knew his delicacy would not permit him to pass such an one. They have therefore extended the compliment to all his successors. We are under obligations to the great man now our President; but a lover of Liberty and friend to the Rights of Man, would be cautious how he showed his sense of that obligation. As a friend to the President, I am unwilling to offer him a compliment which, if accepted, might damn his reputation. Were I in his place, I would cut off my hand rather than it should sign the act as it now stands. Were I his greatest enemy, I should wish him to pass it as it was passed by the Senate. Sir, I am as much his friend as the member from New Hampshire, and have shown, at proper times and places, that I was so. I am too sensible of the honor our President has acquired to suppose that an unbecoming compliment can in any degree contribute to its increase. I hope, therefore, the amendment which the House has made will not be receded from.

The question being now put, that this House doth recede from the said amendment, it passed in the negative—yeas 24, nays 32, as follows:

YEAS.—Fisher Ames, Robert Barnwell, Egbert Benson, Elias Boudinot, Shearjashub Bourne, Benjamin Bourne, Thomas Fitzsimons, Elbridge Gerry, Nicholas Gilman, Benjamin Goodhue, Thomas Hartley, James Hillhouse, Daniel Huger, Israel Jacobs, John W. Kittera, Amasa Learned, Samuel Livermore, Theodore Sedgwick, William Smith, Jonathan Sturges, Peter Sylvester, George Thatcher, Jeremiah Wadsworth, and Artemas Ward.

NAYS.—John Baptist Ashe, Abraham Baldwin, John Brown, Abraham Clark, William B. Giles, James Gordon, Andrew Gregg, Samuel Griffin, William Barry Grove, Daniel Heister, Philip Key, Aaron Kitchell, Richard Bland Lee, Nathaniel Macon, James Madison, John Francis Mercer, Andrew Moore, William Vans Murray, Nathaniel Niles, John Page, Josiah Parker, Joshua Seney, Jeremiah Smith, Israel Smith, John Steele, Thomas Sumpter, Thomas Tredwell, Thomas Tudor Tucker, Abraham Venable, John Vining, Alexander White, and Hugh Williamson.

*Resolved*, That this House doth adhere to the said amendment.

*Ordered*, That the Clerk of this House do acquaint the Senate therewith.

TUESDAY, March 27.

A message from the Senate informed the House that the Senate recede from their disagreement

to the amendment adhered to by this House to the bill entitled "An act establishing a Mint, and regulating the coins of the United States."

#### DEFEAT OF THE ARMY UNDER GENERAL ST. CLAIR.

On a motion made and seconded that the House do come to the following resolution:

*Resolved*, That the President of the United States be requested to institute an inquiry into the causes of the late defeat of the army under the command of Major General St. Clair; and also into the causes of the detentions or delays which are suggested to have attended the money, clothing, provisions, and military stores, for the use of the said army, and into such other causes as may, in any manner, have been productive of the said defeat:—

Mr. VINING inquired what was the object of the resolution? In what way was it to be carried into execution? For, if the House is not furnished with some answer to these inquiries, he did not see how gentlemen could vote for it. He conceived that this indefinite mode of procedure would only embarrass the President, without producing the desired effect. He was in favor of a full and complete investigation of the subject; and, if there has been any deficiency, let those who are to blame be impeached. He was not disposed to screen any officer from justice, let him be of what rank he may; but he was not satisfied with the mode now proposed. He did not consider it as constitutional or practicable.

Mr. BODINOT said, he was surprised to hear the gentleman from Delaware express a doubt of the practicability of instituting an inquiry into the late unfortunate business in the mode proposed. For his part, he saw no such difficulties in the way, as appeared to the gentleman. Mr. B. then stated certain complaints which existed, and were currently reported—such as a failure of the contracts, and, for aught that appeared to the contrary, the misfortunes of the army may be traced to that cause. Other complaints are circulated, respecting which the public have a right to be satisfied. The present proposition goes no further than a simple request. Having signified the wish of the House, the President may adopt such measures in relation to the subject as he may see proper.

Mr. GILES supported his motion. He conceived that the inquiry was indispensable, and the mode proposed strictly proper. The business must begin somewhere. This House is the proper source, as the immediate guardians of the public interest.

Mr. VINING rose to explain. He stated various difficulties which would impede the progress of the matter in the informal mode proposed. These, he observed, were so great as to involve an impossibility of prosecuting the investigation to any purpose. He supposed that a more proper and constitutional way would be to call on the Heads of Departments to give an account of their conduct.

Mr. CLARK observed, that it was evident the public mind was greatly agitated. An inquiry was necessary. If the mode proposed should not



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prove agreeable or convenient to the President, he will let us know it.

Mr. W. SMITH observed, that this was the first instance of a proposition on the part of this House to inquire into the conduct of officers who are immediately under the control of the Executive. In this view of the subject, the resolution proposed could not but be considered as an impeachment of the conduct of the First Magistrate. Mr. S. then adverted to the division of the powers of the Government expressly provided for in the Constitution. Gentlemen have discovered great solicitude to keep the branches separate and distinct; but, on this occasion, from the consideration that this House is the grand inquest of the nation, they seem to discover a disposition to go into a similar mode of conduct with the National Assembly of France, who spent a whole night in examining a drum major. He would not say that they had not a right so to do, but he believed no gentleman would justify such a line of conduct on the part of this House. He then particularized the several objects of inquiry in relation to the present subject. He showed that the Constitution had made provision in all the several cases. And as it was the duty of the President of the United States to carry the laws into execution, it ought to be shown that he has been remiss in his duty, before he is called on in this way. He noted the account published by the Secretary of War, by direction of the President, and considered as his act. After several other remarks, Mr. S. concluded by saying that, in any case where it shall appear that the Supreme Executive has not done his duty, he should be fully in favor of an inquiry; but, till that was done, he trusted the measure would not be adopted, without at least a previous and full discussion.

Mr. WILLIAMSON said, he doubted the propriety of the resolution, in its present form; but was fully of opinion that an inquiry into the expenditure of all public money was the indispensable duty of this House. He proposed the appointment of a select committee to inquire and report.

Mr. KITFERA moved to amend the resolution by substituting a select committee.

Mr. VENABLE was in favor of the original motion. He conceived that it was the only proper mode of proceeding. Nor had he any apprehension that the President would consider it as encroaching in the smallest degree.

Mr. GILES contended that his motion was so far from tending to blend the several branches of Government, that its effect would be the reverse.

Mr. STEELE said, he was indifferent as to the mode, provided the matter was fully gone into. The gentleman from South Carolina has mentioned the Report of the Secretary of War, and has said that it is considered as the act of the President of the United States. Mr. S. denied that it was the President's act. It was not satisfactory. Will any gentleman on this floor say it is satisfactory to him? He enumerated several articles of complaint, and observed that he had no great doubt that an inquiry would lead to an impeachment. Justice to the public, and the officers

particularly concerned, loudly demands an inquiry.

Mr. VINING here moved that the resolution should be committed to a select committee.

Mr. BOUDINOT objected to the idea of a committee. He said the time would not admit of it. Witnesses are perhaps eight hundred miles off. What progress can a committee make in such a business? He denied that it was the duty of the President to institute the inquiry, unless he was requested to do it. The magnitude of the objects of inquiry would involve such an expense that the President would not be justified in incurring it, unless he was authorized by the House. He then stated some particulars to show the practicability of the measure—among others, that there were a sufficient number of officers present to form what is denominated a Court of Inquiry.

Mr. BARNWELL was opposed to the original motion. He considered it as informal, and suggested what he considered as the proper mode of procedure, which was, to call on the several officers of Government for such information as may be necessary. He was against the commitment.

The motion for a select committee was negatived.

The question then was on agreeing to the resolution.

Mr. HILLHOUSE said, he believed this was the first time that it was ever contemplated to appoint a Court Martial to inquire into the expenditure of public money.

Mr. FITZSIMONS said, he conceived that several parts of the resolution were improper. He thought that it was entirely out of order to request the President of the United States to institute a Court Martial or a Court of Inquiry. The reasons and propriety of such Courts are better and more fully known to the President than to the members of the House. He was in favor of a committee to inquire relative to such objects as come properly under the cognizance of this House, particularly respecting the expenditures of public money; and if the resolution should be disagreed to, as he hoped it would, he should then move for such a committee.

Mr. BALDWIN said he had made up his mind on the subject. He was convinced the House could not proceed but by a committee of their own. Such a committee would be able to throw more light on the subject, and then the House would be able to determine how to proceed; and, if any failure had taken place on the part of the Executive officers, he should then be prepared to address the President, and to request him to take the proper steps in the case.

Mr. SENEY advocated the resolution, and urged several objections against a committee.

Mr. HARTLEY said, as it was probable some degree of odium would fall on those who might vote against this resolution, he thought proper to give some reasons why he should vote against it. These were similar to what had been offered by several other gentlemen against the resolution, as being improper and informal.

Mr. MADISON started some difficulties in the



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case. He said the House ought to deliberate well, before they requested the President to do a thing which he had it not in his power to do. It was evident that the object of a Court Martial or Court of Inquiry must be to elucidate facts which would require the presence of officers, who could not possibly give their attendance in season to meet the object of the resolution. He made some further remarks, and then the question on the resolution was put, when—

A division of the said motion was called for; and the question being put, that the House do agree to the first clause thereof, in the words following:

“*Resolved*, That the President of the United States be requested to institute an inquiry into the causes of the late defeat of the Army under the command of Major General St. Clair:”

It passed in the negative—yeas 21, nays 35, as follows:

**YEAS.**—John Baptist Ashe, Elias Boudinot, Abraham Clark, William Findley, William B. Giles, Benjamin Goodhue, Daniel Heister, Aaron Kitchell, Richard Bland Lee, Nathaniel Macon, John Page, Josiah Parker, Cornelius C. Schoonmaker, Joshua Seney, Thomas Sumpter, Peter Sylvester, George Thatcher, Thomas Tredwell, Abraham Venable, Artemas Ward, and Francis Willis.

**NAYS.**—Fisher Ames, Abraham Baldwin, Robert Barnwell, Egbert Benson, Shearjashub Bourne, Benjamin Bourne, John Brown, Thomas Fitzsimons, Nicholas Gilman, James Gordon, Andrew Gregg, Samuel Griffin, William Barry Grove, Thomas Hartley, James Hillhouse, Daniel Huger, Philip Key, Amasa Learned, Samuel Livermore, James Madison, John Francis Mercer, Andrew Moore, Frederick Augustus Muhlenberg, William Vans Murray, Nathaniel Niles, Theodore Sedgwick, Jeremiah Smith, Israel Smith, William Smith, John Steele, Samuel Sterrett, Jonathan Sturges, John Vining, Alexander White, and Hugh Williamson.

And so the said motion was rejected.

Another motion was then made and seconded, that the House do come to the following resolution:

“*Resolved*, That a committee be appointed to inquire into the causes of the failure of the late expedition under Major General St. Clair; and that the said committee be empowered to call for such persons, papers, and records, as may be necessary to assist their inquiries.”

And the question being put that the House do agree to the same, it was resolved in the affirmative—yeas 44, nays 10, as follows:

**YEAS.**—John Baptist Ashe, Abraham Baldwin, Shearjashub Bourne, Benjamin Bourne, John Brown, Abraham Clark, William Findley, Thomas Fitzsimons, William B. Giles, Nicholas Gilman, James Gordon, Andrew Gregg, Samuel Griffin, William Barry Grove, Thomas Hartley, Daniel Heister, Daniel Huger, Philip Key, Aaron Kitchell, John W. Kittera, Richard Bland Lee, Samuel Livermore, Nathaniel Macon, James Madison, John Francis Mercer, Andrew Moore, Frederick Augustus Muhlenberg, William Vans Murray, Nathaniel Niles, Josiah Parker, Theodore Sedgwick, Joshua Seney, Jeremiah Smith, John Steele, Samuel Sterrett,

Jonathan Sturges, Peter Sylvester, Thomas Tredwell, Thomas Tudor Tucker, John Vining, Artemas Ward, Alexander White, Hugh Williamson, and Francis Willis.

**NAYS.**—Fisher Ames, Robert Barnwell, Egbert Benson, Benjamin Goodhue, James Hillhouse, John Page, Cornelius C. Schoonmaker, Israel Smith, William Smith, and Thomas Sumpter.

*Ordered*, That Mr. FITZSIMONS, Mr. GILES, Mr. STEELE, Mr. MERCER, Mr. VINING, Mr. CLARK, and Mr. SEDGWICK, be appointed the said committee.

*Ordered*, That the Secretary of the Treasury and the Secretary of War return the petitions presented to this House by invalids and others, whose cases are comprehended in the provision of any act of the present session, with the papers accompanying the said petitions, which have been referred to them, and are now in their respective offices; and that the several petitioners have leave to withdraw their petitions.

The House proceeded to consider the report of the committee to whom was referred the petition of the officers of the levies late in the service of the United States. Whereupon,

That part of the said report in the words following:

“That the said officers are entitled to a similar bounty allowed to the officers of the regiments, for each recruit by them enlisted; and that a special provision be made therefor,”

being read, was, on the question put thereupon, disagreed to by the House.

*Resolved*, That the said petition be rejected.

WEDNESDAY, March 28.

Mr. FITZSIMONS, from the committee to whom were referred the Treasurer's accounts of receipts and expenditures of the public moneys, from the 1st October to the 31st December, 1791, inclusive, made a report; which was read, and ordered to lie on the table.

The SPEAKER laid before the House a Letter from the Secretary of the Treasury, accompanying the returns of duties arising on imports and tonnage for one year, ending the 30th September last, and a return of exports to the same period; which was read, and ordered to be committed to Mr. PARKER, Mr. KEY, and Mr. GILMAN.

The House resolved itself into a Committee of the Whole House on the Report of the Secretary of the Treasury respecting the Public Debt; and, after some time spent therein, the Committee reported progress, and had leave to sit again.

A message from the Senate informed the House that the Senate have passed the bill entitled “An act for finishing the light-house on Baldhead, at the mouth of Cape Fear river, in the State of North Carolina.”

THURSDAY, March 29.

Mr. SEDGWICK, from the Committee appointed, presented a bill authorizing a grant and conveyance of certain lands to the Ohio Company of

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Associates, on the terms therein expressed; which was received, and read twice and committed.

Mr. STEELE, from the committee to whom was referred the report of the Attorney General on the petition of Andrew Jackson, made a report; which was read, and ordered to lie on the table.

Mr. VINING, from the committee to whom was referred the Report of the Secretary of the Treasury on the petitions of the Minister and Trustees of the Lutheran Church in Rheland township, Chester county, in the State of Pennsylvania; of the Wardens of the Calvinist Church in Vincent township, in the county and State aforesaid; and of the Trustees of the Grammar school and Academy of Wilmington, in the State of Delaware, made a report; which was read, and ordered to lie on the table.

The SPEAKER laid before the House a Letter from the Secretary of the Treasury, accompanying his report on the petition of William Smith, of the town of Baltimore; which was read, and ordered to lie on the table.

#### THE PUBLIC DEBT.

The House resolved itself into a Committee of the Whole House on on the Report of the Secretary of the Treasury on the subject of the Public Debt.

Mr. GILES proposed a clause to be added to the first proposition offered by Mr. FITZSIMONS, the object of which was to preclude the admission of the irredeemable principle in the debt hereafter to be subscribed to the loan of the United States. Mr. G. supported his motion by adducing sundry reasons. The creditors, by not availing themselves in season of the chance of subscribing under the terms of the first subscription, the Government are under no obligation to renew those terms. He said his motion was to have a subsequent operation, and therefore cannot be considered as an infraction of existing contracts. The irredeemable principle, he observed, is an exotic, and appears to have been adopted without a due consideration of its applicability to our circumstances. The funding system of Great Britain has prostrated that Government. The prosperity of that country is not owing to its financial arrangements; Great Britain is in its decay; this Government is in its youth. It is improper for us to use such stimulants as may be necessary to induce vigor in age. The irredeemable quality is the result of necessity in the funding system of Great Britain; and that principle will operate its ruin. The argument drawn from a violation of contracts applies as well to the first system as to that now proposed; the reduction of the interest was a violation of the original contract.

He then entered into a consideration of the principle of equality, and showed from the present state of the debt, part of it being in the hands of those who were inimical to the cause which this debt was contracted to support, the obligation of the Government to add to the gift, which in fact has already been made to these people, by infusing this irredeemable quality, may well be questioned. He added some further remarks, and con-

cluded by saying, he hoped that a principle which would be so fatal to the United States would be rejected, by adopting the proposition he offered.

Mr. AMES offered various estimates, by which he demonstrated that funding the debt on the principle now opposed would not incapacitate the Government from discharging it; on the other hand, it would facilitate the object greatly.

Mr. LAURANCE observed, that the opposers of the proposed system, after offering various motions, appear at last to be agreed in a specific object. He denied that the consequences which it had been said resulted from the funding system of Great Britain had taken place. Adverting to the operation of the system in this country, he said the observations were no better founded. With respect to the irredeemable quality, it was not a novel circumstance: under the old Congress foreign loans had been made on a similar principle. It is well known that the old Congress contracted a debt which they could not discharge under ten years; and the payments then could be only made by instalments. No fault had ever been found with this transaction. He then entered into a general defence of the funding system; and, adverting to its operation, he showed what had been done. The credit of the country had been raised from the lowest ebb, and a larger sum of the debt had been paid off than any man in the country had any conception of. Here he noticed some remarks which had been made yesterday by a gentleman, who had said that the Secretary had insulted the House by his propositions; and said, in his opinion, such reflections were not merited by an officer who had done so much for his country. He defended the irredeemable principle, and showed the advantages which the country derived from it. He further remarked, that the Government was not precluded from exerting its faculties in discharging the debt to as great a degree as any person had proposed, or as had been considered prudent; and while the United States are thus circumstanced, the douceur to the creditors, in the principle now opposed, is in fact no possible disadvantage to the Government.

Mr. MERCER said the funding system was not understood by the country at large, and he was not surprized when he found it was not understood in this House. He was glad, therefore, to hear observations thrown out, which served more fully to develop this system. The irredeemable quality he was astonished to hear advocated by any gentleman in this House; for sure he was that no measure of the Government was more odious elsewhere, or more universally execrated. He adverted to some of the financial operations of the British Government, and drew a comparison which placed the funding system of this country in a less eligible point of view than that of Great Britain. He said that by an easy process it could be made to appear that one-half, or at least one-third, of the six per cents might have been paid off, viz: by borrowing at three or four per cent. This is the mode which the British minister adopted. He showed, from certain state-



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WEDNESDAY, April 18.

Mr. BOUDINOT, from the committee to whom was referred the petition of William Haburn, respecting the refusal of the Judges of the Circuit Court for the district of Pennsylvania, to execute an act passed at the present session, entitled "An act to provide for the settlement of the claims of widows and orphans, barred by the limitations heretofore established, and to regulate the claims to invalid pensions," made a report; which was read, and ordered to lie on the table.

Mr. BOUDINOT, from the committee appointed, presented a bill for settling the demands of Anthony Walton White against the United States; which was received, and read the first time.

A petition of Charles Colvill and John Robertson was presented to the House and read, praying to be paid the amount of their ransom from slavery among the Algerines, together with their expenses in traveling from Algiers to Scotland, and from thence to America; as also, that measures may be taken for procuring the ransom or relief from slavery of Captains O'Brien and Stephens, with their respective crews, being citizens of the United States, and now in slavery at Algiers. Referred to Mr. LAURANCE, Mr. MADISON, and Mr. LIVERMORE; that they do examine the matter thereof, and report the same, with their opinion thereupon, to the House.

A message from the Senate informed the House that the VICE PRESIDENT having requested and obtained leave of absence from the Senate for the remainder of the session, RICHARD HENRY LEE was duly elected President of the Senate *pro tempore*; also, that the Senate have passed a bill entitled "An act making alterations in the Treasury and War Departments;" to which they desire the concurrence of this House.

The said bill was read twice, and committed.

The House again resolved itself into a Committee of the Whole House on the bill for raising a further sum of money for the protection of the Frontiers; and, after some time spent therein, the Chairman reported that the Committee had made several amendments thereto; which were severally read, and ordered to lie on the table.

A message from the Senate informed the House that the Senate have resolved that the bill sent from this House entitled "An act to extend the time heretofore granted for the payment of the duties on certain teas, imported after the third day of March, 1791," do not pass to a third reading.

THURSDAY, April 19.

A bill for settling the demands of Anthony Walton White against the United States was read the second time, and committed.

Mr. GOODHUE, from the committee appointed, presented a bill relative to the compensations to certain officers employed in the collection of the duties of impost and tonnage; which was received, read twice, and committed.

The SPEAKER laid before the House a Letter from the Secretary of the Treasury, accompany-

ing his report on the petition of the merchants of Philadelphia, relative to the erection of piers for the convenience of the navigation of the river Delaware; which was read, and ordered to be referred to Mr. FITZSIMONS, Mr. VINING, and Mr. KEY, with instructions to prepare and bring in a bill pursuant thereto.

## PROTECTION OF THE FRONTIERS.

The House proceeded to consider the amendments reported by the Committee of the Whole House yesterday to the "bill for raising a further sum of money for the protection of the Frontiers;" and the same being read were further amended, and agreed to.

A motion being made to enhance the duty on imported hemp and cordage, and to strike out imported cotton from articles exempted from duty—

Mr. BOURNE said, he hoped this increase would not be agreed to; the navigation of the United States would suffer by it, as the supply furnished by the cultivation of that article was not competent to the demand.

Mr. WHITE said, that on the principle of uniformity, he thought this duty ought to be raised; but when it is considered that many of the duties are designed to encourage the manufactures of the United States, he thought that equal attention should be paid to the agricultural interest, an interest as important as any other, at least.

Mr. WILLIAMSON supported the amendment. He said the independence of the United States, in respect to its navigation, was so important an object, that he conceived everything ought to be done to effect it. Among others, proper encouragement should be given to the raising of hemp, especially when it is considered that we have a greater proportion of land than any other country; that experiments have proved that it can be raised to advantage; that it will, if duly encouraged, conduce to rooting out the cultivation of tobacco, which impoverishes the soil, and is a mere article of luxury. He was at a loss to account for the omission of this duty in the first instance.

Mr. PARKER supported the amendment. He enlarged on the good policy of affording this encouragement. He said, if the gentleman who moves to disagree to the amendment, had proposed to reduce the duty on canvas, he thought it would be more consistent; and, in this case, he should be willing to relinquish this enhanced duty on hemp.

Mr. GOODHUE said he should agree to the enhanced duty.

Mr. LAURANCE opposed it, principally on account of its being a tax on a raw material, and a very essential one, too, to the navigation and commerce of the United States.

Mr. MADISON offered some remarks in favor of the enhanced duty.

The amendment was agreed to. Foreign cotton being inserted among the articles to be exempted from duty—

Mr. MASON moved that it should be struck out. He thought it best that the duty should be continued. Great quantities, he said, were raised in



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the Southern States, for which they could not find a market.

Mr. AMES opposed the motion. He said there were manufactures carried on in the United States which required foreign cotton. Some things could not be manufactured without cotton of a particular staple. He further remarked, that the encouragement to the raising of cotton depends on the manufactures formed from it; hence he inferred that this very encouragement is suspended on a due attention to the manufactures.

Mr. STEELE stated sundry particulars, to show that the cotton raised in the Southern States was adapted to every species of manufactures; and depending on encouragement from Government, the farmers of North Carolina had gone largely into the cultivation of that article. It is well known, said he, that the situation of the three Southern States is favorable to the raising of hemp and cotton; and, on the principles of reciprocity, he thought it but just and equal to extend encouragement to the agricultural interest of those States.

Mr. BALDWIN observed, that he could have wished the gentleman had mentioned the particular species of cotton, which was so necessary in the manufactures, that could not be procured from the Southern States. He said that there were two sorts of cotton raised there—one of a short, the other of a long staple; and under due encouragement, they would in a few years raise every description of that article.

Mr. FITZSIMONS, Mr. MURRAY, and Mr. KITTERA, supported the motion for striking out the article.

Mr. PAGE, in favor of the duty, observed, that the gentleman [Mr. AMES] who had expressed his fears that American cotton would not suit the manufacturers, might lay aside his fears, for he knew from experience the contrary. That even if what had been said of the cotton of the United States were true, he knew that there was reason to believe that the cotton of the West and East Indies would grow even in Virginia—that both had been lately introduced into that State. Such fears, he said, might upon examination perhaps be traced to the same origin with some formerly introduced into Virginia; that the sheep of America were only useful as food, their wool being unfit for the woollen manufacture. He added, he well remembered it was with difficulty some people were convinced that the salt water of America would yield *salt*. He said, for his part, he should as easily be persuaded that the fish of the United States were unfit for food, and as incapable of being cured so as to be merchantable, as that the cotton of America was unfit for the cotton manufactories; he therefore, advised the worthy member to be upon his guard against such insinuations. As to himself, Mr. P. declared, he had no idea that any member of either House could wish to injure the interests of any of the States; but, he said, he was authorized to suppose that as the manufacturers in general were foreigners, they had their prepossessions and prejudices, which might give rise to the opinions entertained by some gentlemen respect-

ing the unfitness of our cotton for manufacture; but he averred that whatever gave rise to them, they were ill-founded, as he had often seen and worn in the late war, cotton cloth and stockings, as good and fine as ever had been imported. As to encouraging the manufactures, however, said he, I have ever thought it foreign to the business of Congress, and if not so, a mere taking from one hand and giving to another; a delicate affair, which might be misunderstood and misapplied; however, as it is thrown in before us, I take my share for my constituents.

As to the fears of the member from Pennsylvania, [Mr. KITTERA] that the culture of cotton may injure the farmer, Mr. P. said, he could assure him that he had found cotton a good preparative for wheat, and that lands where he lived, which had been worn out with tobacco, yielded excellent cotton, and left the ground in fine order for wheat, and that cotton, if properly encouraged, would be a good substitute for tobacco.

A motion was then made, and the question put, to amend the said bill by adding to the end thereof the following clause:

*“And be it further enacted, That this act shall continue until the ——— day of ———, and until the next session of Congress which shall happen thereafter, and no longer; and that, from and after the expiration of the same, the duties hereby extinguished and repealed shall be revived, collected, and appropriated, in the same manner they would have been had this act never been passed:”*

The yeas and nays being demanded by one-fifth of the members present, were taken, and stood—yeas 32, nays 31,

Whereupon, the SPEAKER declared himself with the nays. And so the said question was lost.

Those who voted in the affirmative are as follows:

YEAS.—John Baptist Ashe, Abraham Baldwin, John Brown, William Findley, William B. Giles, Andrew Gregg, Samuel Griffin, William Barry Grove, Daniel Heister, Israel Jacobs, Richard Bland Lee, Nathaniel Macon, James Madison, John Francis Mercer, Andrew Moore, Nathaniel Niles, John Page, Josiah Parker, Cornelius C. Schoonmaker, Joshua Seney, Upton Sheridane, Jeremiah Smith, Israel Smith, John Steele, Jonathan Sturges, Thomas Sumpter, Thomas Tredwell, Thomas Tudor Tucker, Abraham Venable, Alexander White, Hugh Williamson, and Francis Willis.

Those who voted in the negative are—

NAYS.—Jonathan Trumbull, *Speaker*, Fisher Ames, Robert Barnwell, Egbert Benson, Elias Boudinot, Shearjashub Bourne, Benjamin Bourne, Abraham Clark, Jonathan Dayton, Thomas Fitzsimons, Elbridge Gerry, Nicholas Gilman, Benjamin Goodhue, James Gordon, Thomas Hartley, James Hillhouse, Daniel Huger, Philip Key, Aaron Kitchell, John W. Kittera, John Laurance, Amasa Learned, Samuel Livermore, Frederick Augustus Muhlenberg, William Vans Murray, William Smith, Samuel Sterrett, Peter Sylvester, George Thatcher, John Vining, Jeremiah Wadsworth, and Artemas Ward.

FRIDAY, April 20.

The SPEAKER laid before the House a Letter and Report from the Secretary of the Treasury,

on the memorial of Eliphalet Ladd; which was read, and ordered to be referred to Mr. FITZSIMONS, Mr. GERRY, and Mr. MURRAY, with instruction to prepare and bring in a bill or bills making a general provision for the case of the petitioner and others in similar circumstances.

A petition of divers citizens and inhabitants of the State of North Carolina was presented to the House and read, praying that Congress will authorize the Assembly of the said State to lay a duty by way of tonnage or toll on vessels coming over the Bar and Swash and Croatan Shoals, for the express purpose of deepening the same, and thereby removing the obstruction to the navigation leading to the towns of Edenton, Washington, and Newbern.

*Ordered*, That the said petition be referred to Mr. WILLIAMSON, Mr. WHITE, and Mr. TUCKER; that they do examine the matter thereof, and report the same, with their opinion thereupon, to the House.

#### PUBLICATION OF THE DEBATES.

Before the House proceeded to the order of the day—

Mr. GERRY said, that the circumstance of a publication which had made its appearance that morning induced him to rise for the purpose of bringing forward a proposition respecting a full and impartial publication of the debates of that House. Every gentleman, he believed, would agree with him that, from a publication of this kind, the citizens of the United States would derive such information respecting the proceedings of the Legislature, and the principles on which the laws are grounded, as must be productive of the most salutary effects, and attach the people more strongly to the General Government; but that *ex parte* publications can have no other tendency than to misrepresent their proceedings, and alienate the affections of the citizens. He therefore moved the following resolution:

“Whereas an impartial publication of the Debates of Congress, stating accurately their Legislative measures, and the reasons urged for and against them, is a desirable object, inasmuch as it may aid the Executive in administering the Government, the Judiciary in expounding the laws, the Governments and citizens of the several States in forming a judgment of the conduct of their respective Representatives, and Congress themselves in revising and amending their Legislative proceedings: And whereas, from the want of proper arrangements, such publication has not been accomplished—

“*Resolved*, That — persons, of good reputation, and skilled in the art of stenography, be, at the next session, appointed by ballot, to take and publish, impartially and accurately, the Legislative subjects which may be submitted to the consideration of the House, and the debates thereon of the members respectively; that the persons so to be appointed be considered as officers of the House, and provided for accordingly; that they be severally qualified by oath to a faithful discharge of the trust; and that such regulations shall be prescribed, as may be necessary to protect them in attaining the salutary objects of their appointment.”

This (Mr. G. said) was a subject which ought no

longer to be overlooked. Whilst Congress sat at New York, great uneasiness had been occasioned in the House by the mode in which the debates were published. Sometimes members were introduced as uttering arguments directly the reverse of what they had advanced. At other times, the substance of the arguments, as published, wore an aspect widely different from what they had when offered in debate. In some instances, their arguments were so garbled that they themselves were unable to recognise them in print; in others, they were disfigured with grammatical errors, and rendered totally unintelligible; and, on many occasions, the arguments on one side of the question only were published.

Such were the effects produced by this mode of publication that a gentleman from South Carolina [Mr. BURKE] brought forward a motion for correcting those evils, which was debated for some time. After the subject had been two or three times under discussion, the House was informed that there was a probability of care being taken in future to correct the errors; and thus the matter was passed over.

Mr. G. then mentioned a circumstance which he had learned from a gentleman who had declared he could prove it on oath before the House, if called upon, viz: that, having asked one of those persons who at that time published the debates, “how he could think of publishing them so inaccurately?” the answer was, “that he was under a necessity of obliging his employers.” Hence, he concluded that there must have been a corrupt faction who influenced that short-hand writer.

When Congress first came to this city, the debates were published pretty accurately; and so they were this session, in some of the papers, but in others, the case was otherwise; and he himself, as well as other gentlemen, had been under a necessity of publicly contradicting them in print. In some of the debates, the answer to an argument was published before the argument itself made its appearance; on other occasions, they were published very fully on one side of the question, whilst nothing appeared on the other. Every gentleman, he believed, would admit that this was a true state of the business; and it was well known that, on many important occasions, no debates had been published at all.

The want of regularity in the publication was, he supposed, owing, in some measure, to the want of proper encouragement, as the printers of newspapers would not probably find their account in allowing a sufficient compensation to induce short-hand writers to devote their whole time to the business.

Mr. G. then read from the American Daily Advertiser (of Friday last) the following passage:

“A warm debate hereupon took place, during the course of which, one gentleman, who strenuously supported the motion, was several times interrupted. Apprehensions were expressed of dangerous consequences, in case his speech should appear in print; and an honorable member, who opposed the motion, [Mr. GERRY,] declared that the manner in which the debates of Congress had been published, and the business conducted,



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during the present session, had a direct tendency to bring about a dissolution of the Union.

"As the honorable gentleman did not further explain himself, we are at a loss to determine whether he meant to tax the publishers of the debates with inaccuracy in stating them wrong, — or imprudence, in stating them right, and freely publishing whatever sentiments any member of that House may think proper to express, in the constitutional exercise of the freedom of debate. But, certain we are, that he could not mean to stigmatize them as actuated by partiality, undue influence, or sinister motives of any kind."

Here (said Mr. G.) an idea was held up that the gentleman who had spoken first [Mr. MERCER] was interrupted. But it is not said that I was interrupted, too. I was interrupted as often as he. The House can determine whether I have ever taken any measures to prevent a free and candid publication of the debates. On the contrary, I have always endeavored to obtain it; and I will still proceed to accomplish it as far as possible. I think neither this House, nor any of its members, ought to be subject to publications of this kind. If they are, they will be obliged either to enter into paper wars with printers, or to relinquish the public good. It is incumbent on the House to take measures to prevent misrepresentation. I therefore submit to the House the resolution which I have read; and I hope that, if the proposition itself appears worthy of their attention, they will take it into consideration; or, if it wants any amendment, they will refer it to a committee; for I think the subject ought not to be any longer neglected.

Mr. MERCER.—I second the motion; and I think the publication which the honorable gentleman has read to the House contains but a fair statement of facts. The gentleman, in the course of the former debate, made some very strange allusions to what was said by me, which were wholly unauthorized. I consider it as a primary object in this Government that we should on this floor be at all times free to express our sentiments of the Government, without involving the Government itself. I consider such a measure as is now contemplated to be well worthy the serious attention of the House. We are at a distance from our constituents; and it is a misfortune that we are withdrawn from their inspection, by being placed in a part of the Union where it is not easy to compare our circumstances and conduct in private life with the motives which may be supposed to influence our political conduct. Our constituents ought to be acquainted with our proceedings here; and it is only from a full and accurate publication of the debates of this House that they can obtain any satisfactory information on the subject.

Mr. GERRY said, that the paragraph he had read did not contain a full statement of facts, as the apprehensions he had expressed were only in case the arguments should go "*unanswered.*"

Mr. GILES made, and Mr. W. SMITH seconded, a motion for referring the resolution to a select committee, to report such regulation as they may think necessary for the publication of the debates.

An additional reason for the reference was, that some alteration in the wording appeared necessary, to [Mr. SMITH,] so far as respects the Judiciary, &c.

Mr. BOUDINOT objected to the commitment, as he thought it a subject of considerable consequence, and there would not be time to take it up during the present session, the House having already outsat the time which the other branch of the Legislature had proposed for the adjournment. This was his only objection; otherwise, he was far from being opposed to the measure.

Mr. GILES thought the consequence of letting the matter lie over till next session would be, that it would die away, and nothing would be done. Unless some steps be taken during the present session, no persons would come forward as candidates at the commencement of the next. But if a committee report on the subject, the House may determine what steps are to be taken, and people will be prepared accordingly.

The question being taken on the commitment, it passed in the affirmative—yeas 27, nays 22.

*Ordered,* That the said motion be committed to Mr. GERRY, Mr. MERCER, Mr. LEE, Mr. SMITH of South Carolina, and Mr. KITTEBA.

#### PROTECTION OF THE FRONTIERS.

The House resumed the consideration of the bill which lay on the table "for raising a further sum of money for the protection of the Frontiers;"

Mr. PAGE rose to renew the motion which he made yesterday, that the bill before the House might be recommitted.

I observed then, said Mr. P., that having been reminded of my duty by gentlemen who said that they had not brought any other plan of ways and means before the House, if they objected to that proposed by the Secretary, had not done their duty, I arose then to show how far I had done my duty, and how far I was willing to perform it. I informed the House that as I did not approve of the Secretary's third plan (that which the House had adopted) I had proposed to the leading members (an expression which gave offence to some gentlemen, but which I explained as meaning no more than members who take the lead in business, and to whom I confessed myself obliged for their services, and whom, when they lead rightly, I was willing to follow) an adoption of the Secretary's second plan, but not meeting with their approbation, I then joined my friends in endeavors to amend the bill; failing in this, and called on to do my duty, I rise to move that the bill be recommitted. Had gentlemen, sir, done what they promised they would do, if the House would apply to the Secretary of the Treasury for a plan of ways and means, I should have no occasion to make this motion. They promised that they would freely and boldly examine his report, and listen attentively to every proposition which could be opposed to it; but have they done this? No; they embraced without hesitation the third plan proposed by the Secretary, as if it were because he said it was the best of the three, without offering either of the other two plans to the House, although the second had been proposed by



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a member from Massachusetts [Mr. GOODHUE] before the House had agreed to apply to the Secretary for his opinion. I hope, therefore, that those gentlemen will now agree to recommit the bill, that we may have an opportunity of trying whether one of the two other plans proposed by the Secretary, or some other, may not be preferable to that adopted in the bill; or, if not, let us at least see whether the plan which has been adopted may not be simplified; for there appears no shadow of reason for repealing an act for establishing a permanent revenue, to re-enact it in a bill for raising a sum of money for a temporary purpose—the business of a campaign—nor can there be any propriety in passing a bill for the defence of the frontiers, which is in fact a bill for the encouragement of manufactures, and of the fisheries, and for increasing the Sinking Fund, and also for the introduction of a Stamp Act.

If the Committee of the Whole will not adopt the first plan proposed by the Secretary, I mean that for disposing of the interest in the Bank of the United-States, which I confess I should prefer to laying the excessive duties proposed in the third plan, and which are to be levied by the bill before you; nor the second plan, which was once so well recommended by the member from Massachusetts, at least I hope they will simplify the bill, by striking out what is foreign to its purpose; that is, the repeal of the former revenue law; and the indirect introduction of a Stamp Act; if we are to have a Stamp Act, and I have no objection to one, let it be introduced fairly and openly, and stand by itself. For my part, I think it a sufficient reason to recommit the bill, to amend it so that it may show at one view not only for what purpose the additional duties are to be laid, but what they are. As the bill now stands, they are so blended with other duties, that no man can see in what manner the sum wanted is to be raised. I know I shall be said to be a bad financier, if I propose to sell out our stock in the bank. I agree that the Secretary's reason against selling now, when stocks are so low, is good; but I know that I speak like the representative of plain dealing, honest Republicans, when I propose rather to sell out their stock in the bank, than to lay additional taxes on them, and increase the duty on imports to such a degree as to introduce smuggling, which must be destructive of their morals, ruinous to their revenue, and which may undermine even their manufactures, which these duties were intended to protect; for, as I remarked on a former occasion, if you go beyond a certain point in taxing imports, you will tempt smugglers to introduce articles with which they will undersell the fair trader and the manufacturer. I confess, however, that as we have an interest in the bank, which may be usefully applied to sinking the national debt—I am willing to apply it to that purpose—and that I prefer the Secretary's second plan to the one the House has adopted. If the bill be committed, I shall be pleased to find the Committee disposed to adopt that. By the plan now in the bill, we are in the first instance to borrow the money wanted. Why, if we are to lay an additional duty, may we not lay only enough

to pay the interest annually, and the principal by instalments? This, I think, must be much more agreeable to our constituents, than to pay the whole sum required by taxes in one year. I see not why we should increase the duties on imported articles rather than on tonnage. I think an additional duty on foreign tonnage, or, if Congress have the courage to lay it, on vessels of nations not in alliance with us, would easily raise a sum for the discharge of the loan necessary on this occasion; and I am of opinion that it is high time to increase the tonnage on such vessels; it is more than two years since this House declared that it would lay an additional duty on the tonnage of vessels of a certain nation, if it would not make a commercial alliance with our States. I know it is said that such a measure might impede a treaty; but, sir, no nation upon earth has a right to resent such a step, nor can we be injured by retaliation. As to a treaty, I doubt much whether we stand in need of one. I fear the business of treaties is better understood elsewhere than here, and that Foreign Ministers might be an overmatch for us in such negotiations. I had rather regulate our commerce, so as to induce the country with which we wish to trade upon advantageous terms, to grant us such terms; at all events, I should aim at increasing our revenue in this manner. If we cannot extend our commerce, and at present I would avoid an increase of duty on imports, I think that the lands in the Western Territory should be sold, and tonnage increased, before we lay any further burden on imported articles—a burden which must be unequally felt by the different States. I hope, therefore, that the bill will be recommitted, and so amended, that it may pass by a great majority.

Mr. HARTLEY made some observations in opposition to the motion. The motion to recommit was negatived.

The bill then being open to amendments, Mr. WILLIAMSON objected to the section which exempted books imported for Colleges and Academies from a duty, and after stating some reasons for his opinion, moved to amend the section by striking out the clause making this exception. This motion, after some debate, was agreed to.

The bill being further amended, was, together with the amendments, ordered to be engrossed and read the third time to-morrow.

SATURDAY, April 21.

The SPEAKER laid before the House a Letter from the Secretary of the Treasury, accompanying his report on the several petitions of Josias Clapham, John Higby, John Elias Moore, William Arnold, William Albaugh, and Margaret Crowell, executors of Henry Crowell, deceased; Daniel Freer; Laurana Richardson, administratrix of George Richardson, deceased; Elizabeth Mark, widow of George Mark, deceased; Henry Lee, William Graham, jr., William Baker, William Jones, Daniel Schermerhorn, John Craine, Peter Huber, John Hays, Daniel Robbins, John Pollhemus, Thomas Donnellan, Stephen Remington, Samuel Skillman, John Hayden, Job Kit-

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tredge, Ebenezer Whittemore, and Martha Whittemore, heirs of William Kittredge, deceased, and William Robinson, respectively, praying the renewal of certain certificates, which are alleged to have been destroyed or lost; which report was read, and ordered to be referred to Mr. LEE, Mr. STURRETT, and Mr. THATCHER; that they do examine the matter thereof, and report the same, with their opinion thereupon, to the House.

A memorial of sundry merchants and others, inhabitants of the city of New York, was presented to the House and read, praying that an act establishing a uniform system of bankruptcy throughout the United States may be passed, under such restrictions and with such limitations as Congress shall think just. Referred to the committee appointed to prepare and bring in a bill or bills to establish a uniform system of bankruptcy throughout the United States.

#### \* PROTECTION OF THE FRONTIERS.

An engrossed bill for raising a further sum of money for the protection of the Frontiers was read the third time, and the blanks therein filled; and, on the question that the said bill do pass—

Mr. PAGE made the following remarks: If the bill were what its title says it is, I should be the last man in this House to vote against it. But it is so different from what its title represents it to be, that this, added to the objections which I have already made and heard against it, I shall vote against its passage. Sir, it is not a bill for the protection of the frontiers, but for the encouragement of certain manufactures, and of the fisheries, and for the increase of the Sinking Fund. It is a bill very different from what it ought to be, and is about to pass, from what has fallen from some gentlemen, as a compromise for the assumption of the State debts, and an encouragement to the manufacturers and fisheries. Such compromise I cannot approve of; and such a bill I cannot vote for. If it be thrown out, I think we may bring in one to answer its purpose much better. It is improper to entangle this bill with matter foreign to it. There is no occasion to repeal the act for establishing a permanent revenue to blend it with this bill.

Mr. MURRAY said he was in favor of the bill. A great and unexpected calamity had called on the country for money for the support of a necessary and increased army. In the discussion of this bill there had been a perpetual reiteration of objection by some members as to the inexpediency and impropriety of a reference to the Secretary of the Treasury for his opinion. This might have been all very fair before the reference was made, and his report obtained, but was not altogether absolutely necessary now, when the question was not a reference, but the best mode of raising the sum wanted. He had, however, been convinced of this, that had the faith of the House rested itself on the powers of those who perpetually recur to the reference, and who propose nothing themselves, little could have been accomplished. For surely if those who, in the midst of a general call for the exercise of invention and judgment, con-

tent themselves with complaints at the mode in which the resources of the country have been shown to us, we must conclude that either they have not power, or want inclination to originate or to amend—a fair field has been open to both.

We had been called on to raise five hundred and fifty odd thousand dollars to defray the expenses of a frontier defence; we referred the mode of raising the sum to the Secretary, still retaining what we could not yield—the power of altering, amending, or wholly rejecting the report of that officer. He said that he had voted the reference for reasons which he would not again repeat. Satisfied, as he now was, that he had been then right, he would now vote for the measure, which, with some amendments on the Secretary's system, had arisen from the report. The opposition to the reference at first seemed to him to be founded among other reasons in a properly grounded consciousness of some members in their own ability to do without official assistance. He had imagined, however, that when the report came to be taken up, it would not have been treated with merely naked opposition. He hoped, and he declared himself sincere in the expectation, that some gentlemen, whose distinguished talents fitted them for something better than the mere prevention of evil, would have favored the committee with plans of their own, and at all events have joined in improving and correcting, not merely by limitation of time, but by supplying and ingrafting strength where there might be weakness, and a substitute of something better where there was merely good. When the bill came into discussion he expected that when gentlemen opposed one proposition they would candidly have given an election of a better by proposing something of their own. Where there was no alternative presented, there could be no choice; and it was natural to expect where proof is given of the badness of one system, the judgment should have a chance of comparing what is alleged to be defective with that which is more eligible and perfect. But he lamented that gentlemen had offered nothing like an alternative in the very moment when their efforts seemed to be directed to defeat a bill, for which they neither promised nor offered a substitute. Had the same ingenuity, that appeared to pride itself in its power of impeding, been exercised in its ability to create, to amend, and to propose, he had not a doubt but that a yet more perfect and better digested system had been the result. As he was bound to no particular lesson of finance, he would have met the propositions of members with partiality, and exercised his judgment with deference and candor. On all sides it was agreed that the local feelings and knowledge of the nation were here; they ought, then, occasionally in the progress of the bill to have here suggested the claims of particular interests, and in all practicable cases to have ingrafted them; this was done in some instances, particularly the protecting duties by which the hemp and cotton of the Southern States, and the iron of the Middle States, are encouraged and established. He said he would not detain the House but with a few remarks why the



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bill appeared not only defensible, but good. The predominant feature of it was its *nationality*, as it respected impartial, and, as far as circumstances admit, equal justice and encouragement to the interests and raw materials of the respective States. It presented a point in which the relative interests of the country, and the various resources of its natural riches, had been combined with skill and harmony. A temper of conciliation had actuated members in the several exemptions and protections which they had brought forward; this was a principle invaluable in a Government whose very soul results from that union in which the natural, but distinct and variant, resources of the country could alone flourish.

They can furnish but by combination and mutual aid. Had the bill no other good, it contained this, that it exhibited a striking proof to all the world that, in the various natural endowments of a country so variously gifted, there existed such a character of relation to each other as to secure great internal wealth and prosperity when combined together, and when acted on by a desire to render the natural wealth and raw materials of one State instrumental to the industry and happiness of another. In this bill the raw materials of the more southern States are protected, and made to serve the purposes of industry and manufacture in the more northern States. Manufacturers would indeed be a favored class of the community if the same protecting duties which secured to them the chances of trade, did not at the same time secure to the agricultural interests a sure market for the raw materials of which the manufacture is composed.

In the early stages of this bill, several gentlemen complained of the preference shown to the manufacturing parts of the country, and it was said that the protecting duties would operate exclusively in the Eastern States. When, however, on the completion of this bill, we see the reciprocity under which the agricultural and the manufacturing interests have been viewed and cherished, we must be forced to own both the liberal and conciliating spirit with which the House has been moved, as well as the mutual dependence on which these apparently opposite interests really are supported. In the instances of hemp and cotton, to which the more southern States are best adapted, we see such a preference given that the duties on these articles of foreign growth almost amount to exclusion. Thus the cotton and the hemp of the South will be carried to supply the manufactures of the North, agriculture be gradually invited and drawn into activity and internal supply, and the bands of the Union drawn amicably tighter by a mutual and habitual dependence of each and all the States in the wants and productions of each other. The iron and steel of the Middle States were likewise protected, and as far perhaps as our experience permitted experiment, the domestic resources of the country were nursed and guarded. While the raw materials of the growth of the country have thus a preference, manufacture and agriculture will go hand in hand; and political union, thus enlivened by commercial

barter, as it is the only medium through which their mutual prosperities are produced and harmonized, will prove by experience the blessing which all have hoped for.

The objection of some gentlemen that the protection of manufactures was not the original object of the bill, he did not think a sound one. Several modes of raising the sum, which is our first object, were held out as alternatives. This mode, by imposts, was the most liked. The line of taxation being once adopted, the protection of manufactures naturally arose out of the thing itself. It arose not as a prime object, but as a necessary incident. He thought the bill would insure productive revenue; and he thought the collateral benefit, as it touched a production of the natural riches of the country, a high recommendation.

The question on passing the bill was then taken, and it was resolved in the affirmative—yeas 37, nays 20, as follows:

YEAS.—Fisher Ames, Robert Barnwell, Egbert Benson, Elias Boudinot, Shearjashub Bourne, Benjamin Bourne, John Brown, Abraham Clark, William Findley, Thomas Fitzsimons, Elbridge Gerry, Nicholas Gilman, Benjamin Goodhue, James Gordon, Thomas Hartley, James Hillhouse, Daniel Huger, Philip Key, Aaron Kitchell, John W. Kittera, John Laurance, Amasa Learned, Samuel Livermore, Andrew Moore, Frederick Augustus Muhlenberg, William Vans Murray, Nathaniel Niles, William Smith, John Steele, Samuel Sterrett, Jonathan Sturges, Peter Sylvester, Geo. Thatcher, John Vining, Jerniah Wadsworth, Artemas Ward, and Alexander White.

NAYS.—John Baptist Ashe, Abraham Baldwin, William B. Giles, William Barry Grove, Nathaniel Macon, James Madison, John Francis Mercer, John Page, Josiah Parker, Cornelius C. Schoonmaker, Joshua Seney, Upton Sheridane, Jeremiah Smith, Israel Smith, Thomas Sumpter, Thomas Tredwell, Thomas Tudor Tucker, Abraham Venable, Hugh Williamson, and Francis Willis.

#### WIDOWS AND ORPHANS' CLAIMS.

A Message was received from the President of the United States laying before Congress the copy of a letter which he had received from the Judges of the Circuit Court of the United States held for the Pennsylvania District, relatively to the "Act to provide for the settlement of the claims of widows and orphans barred by the limitations heretofore established, and to regulate the claims to invalid pensions."

The copy of the Letter referred to in the said Message was read, as follows:

PHILADELPHIA, April 18, 1792.

To the PRESIDENT of the UNITED STATES:

SIR: To you it officially belongs to "take care that the laws" of the United States "be faithfully executed." Before you, therefore, we think it our duty to lay the sentiments which, on a late painful occasion, governed us, with regard to an act passed by the Legislature of the Union.

The people of the United States have vested in Congress all Legislative powers "granted in the Constitution."



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*Address to the President—Defeat of General St. Clair.*

[NOVEMBER, 1792.]

The SPEAKER laid before the House a Letter from the Secretary of the Treasury, covering a statement of the receipts and expenditures of public moneys, to the end of the year 1791; which was read, and ordered to lie on the table.

## ADDRESS TO THE PRESIDENT.

The SPEAKER, attended by the House, then withdrew to the house of the PRESIDENT OF THE UNITED STATES, and there presented to him the Address of this House, in answer to his Speech to both Houses of Congress; to which the PRESIDENT made the following reply:

"GENTLEMEN: It gives me pleasure to express to you the satisfaction which your Address affords me. I feel, as I ought, the approbation you manifest of the measures I have taken, and the purpose I have formed, to maintain, pursuant to the trust reposed in me by the Constitution, the respect which is due to the laws; and the assurance which you, at the same time, give me, of every constitutional aid and co-operation that may become requisite, on your part.

"This is a new proof of that enlightened solicitude for the establishment and confirmation of public order, which, embracing a zealous regard for the principles of true liberty, has guided the deliberations of the House of Representatives; a perseverance in which can alone secure, under the Divine blessing, the real and permanent felicity of our common country.

"G. WASHINGTON."

The House, having returned to their Chamber, resumed the reading of the papers communicated by the Secretary of War, on Wednesday last, relative to the Indians Northwest and South of the river Ohio, and to the troops in the service of the United States, and made a farther progress therein.

TUESDAY, November 13.

Two other members, to wit: ROBERT BARNWELL and DANIEL HUGER, from South Carolina, appeared, and took their seats in the House.

Mr. BOUDINOT, from the committee to whom was referred the Message from the PRESIDENT OF THE UNITED STATES, of the 9th instant, together with sundry papers on the subject of the boundary line between the State of Virginia and the Territory of the United States South of the Ohio, made a report; which was read, and ordered to lie on the table.

## DEFEAT OF GENERAL ST. CLAIR.

On a motion made and seconded, that the House do come to the following resolution:

"Resolved, That the Secretary of the Treasury and the Secretary of War be notified that this House intend, on Wednesday next, to take into consideration the Report of the Committee appointed to inquire into the causes of the failure of the late expedition under General St. Clair, to the end that they may attend the House, and furnish such information as may be conducive to the due investigation of the matters stated in the said report."

Mr. WILLIAMSON moved to strike out the latter part of the resolution, which respected the attendance of the Secretaries on the House. This motion, if carried, leaves the resolution a simple

proposition to inform those officers that the House were, on Wednesday, to take the Report on the failure of General St. Clair's expedition into consideration.

Mr. VENABLE objected generally to the resolution, as inconsistent with the dignity of the House. He doubted the propriety of the measure altogether. The gentlemen are not impeached, and therefore the House has no right to cite them to make their appearance; and, with respect to information, the House can command such from the Heads of Departments as they may see proper to require. He was at a loss in attempting to investigate the object of the resolution. He could see no purpose that it would answer, which could not as well be obtained without it.

Mr. WHITE offered several objections to the resolution, of a similar import with the above.

Mr. DAYTON supported the motion by a few remarks, stating the importance of that information which those gentlemen alone could give. He adverted to the report of the committee, which he observed had exculpated the commanding General on that expedition, whereas he was of opinion that the failure was owing to the misconduct of that gentleman.

Mr. TUCKER objected to the resolution. He preferred the mode of requiring that information which the House might think necessary, in writing.

Mr. MADISON objected to the motion on constitutional grounds, and as being contrary to the practice of the House. He had not, he said, thoroughly revolved the matter in his own mind, and therefore was not prepared to state fully the effects which would result from the adoption of the resolution; but he would hazard thus much, that it would form an innovation in the mode of conducting the business of this House, and introduce a precedent which would lead to perplexing and embarrassing consequences; as it involved a conclusion, in respect to the principles of the Government, which at an earlier day would have been revolted from. He was decidedly in favor of written information.

Mr. CLARK was opposed to the resolution; as a member of the committee who made the report, he had no apprehension; with respect to information, the report and the vouchers are before the House; and such further inquiry may be made of the proper officers as the House may think necessary.

Mr. AMES supported the resolution. He noticed the impressions which the failure of the late expedition had made on the public mind. Characters had suffered in the general estimation. It was of the utmost importance that a thorough investigation should take place, that if the failure of the expedition was a mere casualty, and the fortune of war, it might be made to appear; or, if it was owing to misconduct, the blame might fall on the proper subjects. The mode suggested to obtain information appeared to him the best that could be adopted—the most adequate to the object. It was due to justice, to truth, and to the national honor, to take effectual measures to in-

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investigate the business thoroughly. This inquiry appears to be the beginning of an arrangement preparatory to an impeachment; on whom this will fall, he should not presume to say; but still it places the subject in an important point of view, and shows, in the strongest manner, the necessity of adopting the best possible mode of ascertaining the real state of facts. This, he conceived, could not be done so effectually as by the mode proposed in the resolution.

Mr. GILES objected to the resolution. He preferred a thorough discussion of the report, in the first place, and a comparison of the vouchers with the report; and if, in the issue, it should appear necessary to call for information from these officers, it could then be done; but, in the present state of the business, to adopt the resolution would place the committee in a very disagreeable situation.

Mr. LAURANCE observed that the committee, in their report, say that, for want of time, they had not been able to complete it; it is, then, apparent from the report itself that it is immature. He stated several particulars in the report which were incomplete, and from hence inferred that there was material information to be received previous to being able to form a competent judgment on the matter. He observed that, as the information must be had, he saw no necessity of postponing the attendance of those officers in the first instance.

Mr. MADISON, in reply to Mr. AMES's remark, that the best possible mode ought to be adopted, observed, that there seemed to be different ideas entertained by the different advocates of the resolution; one seemed to implicate the officers alluded to as parties concerned; another appeared to consider them merely as witnesses. For his part, he thought there was no other way of proceeding, but that of adopting one or the other of these alternatives: either to take up the report and discuss its merits, or for the House to begin the inquiry themselves, *de novo*.

Mr. LIVERMORE objected to the resolution. He could not see any advantage which would result from adopting it. He thought the causes of the failure of the expedition were sufficiently obvious, without criminating any body. He adverted to these causes—they were the rawness of the troops, and the superiority of the Indians as marksmen. On these points, he could not see what information could be derived from the Secretary of the Treasury. He thought that the Legislature had gone too far already, and that no satisfaction would result from further proceedings, but that the subject would appear more and more involved.

Mr. BOUDINOT, after stating sundry particulars relative to the state of the public mind at the time of the report, adverted to several parts of it which appear to criminate particular persons, some of whom were absent at the time of the investigation on which the report is founded. He therefore urged the necessity of receiving from the Heads of the Departments that information which was requisite to throw light on several parts of the report, and that this ought to be done previous to taking the report into consideration.

Mr. FITZSIMONS said he should vote against the resolution. He did not think this the proper time to call for the information alluded to; nor the mode proposed a proper one. Some remarks have been made on the report, though it is not before the House; to these he should not particularly reply, but would only observe, that no person had applied to the House for redress of any supposed injury received by the report. - It has been said that the inquiry ought to have been a military one; but it was well known that it was impossible to institute such an inquiry by reason of the want of officers. He then gave a sketch of the mode of proceeding adopted by the committee in conducting the inquiry, to show that they had availed themselves of every means of information within their power.

Mr. WILLIAMSON said he had moved to strike out the latter part of the resolution, but he was equally opposed to the whole of it; and since he had heard the remarks of several gentlemen, on both sides of the House, he was clearly of opinion that the best way was to dispose of it altogether, and to let the subject proceed in the course which it had already taken.

Mr. GILES observed, that he thought there was less delicacy observed on this occasion, in respect to the committee, than was usual in this House. With respect to the report, the vouchers on which every assertion is founded are before the House. As to the incompleteness of the report, it is an immaterial object; the few blanks it contains are occasioned by the want of time to examine the voluminous papers necessary to be examined, in order to ascertain some of the facts—facts not in themselves of the first importance. He observed, that he had not the smallest objection to the fullest investigation of the subject; he was in favor of all the information that could be possibly obtained; he objected not only to the mode now contended for, which he thought not only liable to all the objections which had been made, but to many others which might be offered.

Mr. DAYTON observed, that he was one of those who were not satisfied with the report; he did not think the conclusion which exculpated the commanding officer could be supported by the report itself. He adverted to several facts stated in it, which showed that the commander must have been highly culpable; he instanced the slowness of his movements, the dilatoriness in constructing forts, and his being surprised by the enemy. He thought that the remarks which had fallen from gentlemen, on what he had said, were illiberal, as they had virtually impeached his candor, when he was not conscious of deviating from its dictates. It was not his intention to have touched on the merits of the report, but he had been impelled to do it from the turn the debate had taken.

Mr. GERRY was in favor of the resolution. He enlarged on the magnitude of the object of investigation, and insisted that it was the indispensable duty of the House thoroughly to probe the subject to the bottom, that if any persons have been to blame they may suffer, or if the event which has taken place, by which the national character



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has suffered, and so severe and unproductive an expense has been incurred, amounting probably to one million dollars, has been owing to circumstances which could not be avoided or controlled, the public may receive satisfaction as to the whole matter.

Mr. PAGE objected to the resolution, particularly to the precedent it would establish; but, at the same time, he was in favor of the fullest inquiry the subject was susceptible of. He said, the mode proposed would operate to clog the freedom of inquiry, and the freedom of debate.

Mr. AMES, adverting to the spirit of the report, pointed out the peculiar situation of the two Secretaries, and that they did not stand on the same ground with other persons who are not so intimately implicated in the matter. He alluded to the various objections which had been urged from precedent, from the fullness of the investigation which the subject had undergone in the hands of the Committee, and from the remark by Mr. LIVERMORE, that sufficient had already been done. To this last objection he particularly replied, by saying that the public wanted further satisfaction, and that the House could not justify themselves to their constituents without a stricter and fuller investigation, that the whole of the facts might be laid before them.

Mr. MADISON said, the mode now proposed involved a dereliction of the only practicable mode of transacting public business; and that, however imperfect that mode might be, still he believed that it was the only one that had received the sanction of experience and utility. He therefore hoped that the resolution would be rejected, and the mode already adopted persevered in, and the necessary information called for in writing, from every person in anywise interested or competent to give it.

Mr. W. SMITH supported the resolution. He showed by the report itself, and from the reasoning used by gentlemen in opposition to the resolution, that the two Secretaries were implicated in the causes of the failure of the expedition; from hence, he inferred the justice and propriety of giving them an opportunity of exculpating themselves.

Mr. GERRY expressed surprise at the apprehension which some gentlemen appear to entertain of the measure of introducing the Heads of Departments into the House; for his part he had no such apprehensions. The Secretary will attend at the orders of the House merely to give such information as may be required, and not as members or ministers, to influence and govern the determinations of the House.

Mr. VENABLE objected further to the resolution; he urged the impropriety of any of the Heads of Departments coming forward, and attempting in any way to influence the deliberations of the Legislature.

Mr. LAURANCE replied to Mr. VENABLE; he observed that the gentleman appeared to mistake the object of the resolution; it was not contemplated that either of the Secretaries should appear on the floor of the House to influence, in any de-

gree, its decisions; they are to be called on merely for information.

Mr. MURRAY objected to the resolution. The report, he observed, is made to the House; if in the course of its discussion any further light or information should be deemed necessary, it may then be called for, and in that mode which shall appear most eligible—at present the question appears to be premature. Mr. MURRAY added several other remarks, and then the question being put, Mr. WILLIAMSON's motion for striking out was carried.

And then the main question being put, that the House do agree to the said resolution as amended, it passed in the negative.

*Resolved*, That the Committee of the Whole House, to whom is referred the report of the committee appointed to inquire into the causes of the failure of the expedition under Major General St. Clair, be empowered to send for persons, papers, and records, for their information.

*Resolved*, That the Secretary of the Treasury be directed to cause to be laid before this House a statement of the several disbursements of money made by the Department of War in the years 1790 and 1791.

The House resumed the reading of the papers communicated by the Secretary of War on Wednesday last, relative to the Indians Northwest and South of the River Ohio, and to the troops in the service of the United States, and made a farther progress therein.

#### WEDNESDAY, November 14.

Another member, to wit: WILLIAM BARRY GROVE, from North Carolina, appeared and took his seat in the House.

A petition of John Blake, Joseph Bindon, John D. Mercier, and Benjamin Thompson, on behalf of themselves and other Canadian refugees, was presented to the House and read, praying compensation for losses and injuries sustained in their persons and property, by adhering to the American cause, during the late war.

*Ordered*, That the said petition be referred to Mr. DAYTON, Mr. BENJAMIN BOURNE, and Mr. MURRAY; that they do examine the matter thereof, and report the same, with their opinion thereupon, to the House.

*Ordered*, That a committee be appointed to prepare and bring in a bill or bills to regulate trade and intercourse with the Indian tribes; and that Mr. WHITE, Mr. CLARK, and Mr. WILLIAMSON, do prepare and bring in the same.

*Ordered*, That Mr. FITZSIMONS be added to the committee to whom was referred the petition of James Warrington, attorney in fact for Joseph Blachford, surviving partner of Harris & Blachford, late of Charleston, in the State of South Carolina.

The SPEAKER laid before the House a Letter and Report from the Secretary of the Treasury, accompanied with estimates of the sums necessary to be appropriated for the service of the year 1793; which were read, and ordered to lie on the table.



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[H. OF R.]

Ordered, That a committee be appointed to take into consideration that part of the PRESIDENT'S Speech which relates to the transmission of newspapers, and report whether any, and what, alterations may be necessary in the act passed last session for the regulation of the Post Office; and that Mr. MURRAY, Mr. BALDWIN, Mr. GILMAN, Mr. AMES, and Mr. BARNWELL, be the said committee.

The SPEAKER laid before the House a Letter from the Secretary of War, together with a memorial of Samuel Hodgdon, late Quartermaster General to the Army, respectively praying that they may be heard, and permitted to give information and explanations as to the causes of the failure of the expedition under Major General St. Clair; which were read. The Letter of the Secretary of War is as follows:

WAR DEPARTMENT, November 14, 1792.

SIR: After the close of the last session of Congress I saw with much concern the report of the committee appointed to inquire into the causes of the failure of the expedition, under Major General St. Clair, of the 8th of May, 1792; which, having been presented to the House in the last moments of the session, was ordered to be printed, and has since circulated in the public newspapers throughout the United States, containing suggestions, most of them founded upon *ex parte* investigation, which have been understood in a sense very injurious to my reputation.

Learning that the present day was appointed for taking into consideration the above mentioned report, I have waited with anxious expectation for some act of the House enabling me to attend the progress of the examination upon which they are about to enter, for the purpose of furnishing such information and explanations as might conduce to a right understanding of facts, in which I am so materially implicated. The failure of a proposition, which I am informed was made to the House with that view, has added to my solicitude and regret.

Thus situated, I feel myself called upon to ask of the justice of the House that some mode may be devised, by which it will be put into my power to be present during the course of the intended inquiry, as well to hear the evidence on which the several allegations contained in the report are founded, as to offer the information and explanations to which I have alluded.

To this step I am impelled by a persuasion that an accurate and satisfactory investigation cannot otherwise be had with equal advantage, if at all. And my entire reliance upon the equity and impartiality of the House, will not permit a doubt to exist on my part that such an investigation will be exclusively the object of their desire and pursuit.

I have the honor to be, sir, with the highest respect, your most obedient humble servant,

H. KNOX.

*The SPEAKER of the honorable  
the House of Representatives of the U. S.*

#### DEFEAT OF GENERAL ST. CLAIR.

And then the order of the day, that the House do resolve itself into a Committee of the Whole House on the report of the committee appointed to inquire into the causes of the failure of the expedition under Major General St. Clair, being taken up—

Mr. MADISON suggested that the most simple, most practicable and consistent plan would be, to recommit the report of the select committee, and refer the present applications\* to the committee to whom the report shall be re-committed. He therefore moved that the Committee of the Whole should be discharged from considering the reports on the causes of the failure of the late expedition.

Mr. SMITH (S. C.) observed that several objections struck him in opposition to this motion. The House must at some period, said he, meet this case; if it is recommitted, there will be an impropriety in referring it to the same committee; if a new committee is appointed, they must begin the whole subject *de novo*; and, if their investigation should take up such a length of time as that of the former committee, the session will be expended, and at the close of it the business will recur on the House, and the same discussion will occur again that is now proposed. He hoped the House would therefore proceed in the consideration of the report, assign two or three days in the week for the purpose, and continue the investigation till the whole is finished.

Mr. GILES replied, that he had no doubt that the vouchers on which the committee had founded the report would appear sufficient to justify the decisions that they had made. He said that he did not suppose that the applicants would adduce any new information; one of them had been called on, he attended the committee, and he supposed that he had furnished all the information he was in possession of. He objected to a recommitment; as one of the committee, he was perfectly satisfied with the report; nor did he conceive there was any additional evidence to be produced, except it was of a recent date.

Mr. AMES said, he perceived such a disinclination to go into the subject as indicated a proper temper of mind in relation to the persons supposed to be any ways interested in the ultimate decision of the House. He was opposed to a recommitment, as it would procrastinate instead of expediting the inquiry. He adverted to the report. Facts are stated; the public have been left to draw the inferences; the committee have not explicitly criminated any body; but they have determined, in several instances, who is not to blame. What is the situation of those who are implicated in the causes of the failure? Every citizen knows that, in consequence of the issue of the expedition, clamors against the War Department, in respect to Indian affairs, have rung through the Continent. Should public officers, who have been placed in situations of such importance be silent, and submit calmly to such imputations, they would be unworthy of public confidence, unworthy to breathe the vital air. They now apply for an opportunity to be heard in their own vindication. Shall they be sent to a Committee-room, and make their defence against the allegations brought forward to their disadvantage, which have been published to the world, in the hearing of perhaps ten or a dozen persons only? He hoped not—he

\* Letters of the Secretary of War and Quartermaster General.

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thought justice to them and to the public required that they should be allowed to make their defence in the face of the world. Will not precluding them look like a wish to smother all further inquiry into the matter?

Mr. BALDWIN was in favor of recommitting; he said it was the most eligible mode, and was consonant to the practice of the House.

Mr. MADISON remarked, that it had been said a disposition was discovered to smother inquiry. In reply he observed that, if he wished to prevent a thorough investigation, he should be in favor of the whole subject being undertaken by the House; because, he observed, that if a select committee of a few members took seven weeks to form an incomplete report, it must appear evident that so large a body as this House could never get through the matter. He further observed, that the same reason existed for referring the residue of the evidence to a select committee as induced the measure in the first instance.

Mr. FITZSIMONS said he was at first in favor of a recommitment, but on further consideration he was convinced the House would be able to get through the subject in a shorter time than a select committee. He added several other reasons which induced him to be in favor of the House proceeding with the report.

Mr. GERRY said it appeared to him that the only question seemed to be, whether the House or the select committee shall establish the facts. If these facts are established by the committee, would it give equal satisfaction as if they were established by the House? He conceived it would not; but, should the result be a conviction on the part of the House that some of the officers are culpable, will the House rest an impeachment on the report of the committee? He conceived the House ought to found their decisions on facts ascertained by themselves. It has been said there is no difference between the House and the committee. If this is the case, does it not imply a censure by the House on certain characters? He thought it did. It therefore becomes the House to discuss the report, that it may be determined on what footing it stands. If, in the case of a contested election the House revolted from the idea of submitting their judgment to facts substantiated by a committee, the case before us is of unspeakably greater magnitude. For these, and several other reasons, he hoped the report would not be recommitted.

Mr. WILLIAMSON was in favor of the motion for recommitting; he supported his opinion by the uniform practice of the House, which in every case where new evidence was adduced, always provided that the new evidence should be examined by the same committee, who had originally brought in the report. He said if this mode was departed from, we should find no committee would bring forward a state of facts in future. He thought it was not treating the committee with proper candor to decide on their report in its present situation.

Mr. SYLVESTER observed, that the resolution of the House at the close of the last session, that they

would take up the subject early in the present session, precluded a recommitment; he was therefore opposed to the motion.

Mr. BOUNDNOT was in favor of a recommitment; he said, if there is new evidence to be brought forward, the House ought to wait till that is received and reported at the Clerk's table; and this he conceived ought to be done in the usual way, by a select committee; till the whole testimony is completed it appeared to him the House was not prepared to take one step in the matter.

Mr. MADISON replied to Mr. GERRY's allusion to the case of the contested election. He inquired of him whether the House itself went into an investigation of facts in the first instance? He believed he would not say they did. With respect to the memorials, he inquired, whether, if they had been presented at the time of the investigation of the subject by the select committee, they would not have been referred to the committee? If they would then have been referred, the same reason exists for referring them to a select committee at the present time.

Mr. LAURANCE was of opinion that a recommitment would tend to a saving of time; the committee will not be obliged to go over the same ground again that has already been explored; all they will be obliged to do is, to investigate the new testimony which will be adduced. He hoped, therefore, that the motion would prevail.

Mr. GILES said, that the proceedings of the committee were public, and that the Secretaries could have attended all the time, had they seen proper. They attended but once, and then appeared extremely anxious to get away to attend to their offices. The committee would have been extremely glad to have had those gentlemen present oftener, and to receive all the information they could give, and supposed they had done it.

Mr. GERRY replied to Mr. MADISON. He said, if gentlemen would recur to the proceedings of the House on the contested election, they will find that the House expressly reserved to itself the right of substantiating the facts, which should appear from an examination of the depositions, taken in conformity to the resolutions of the House; and here he adverted to the mode pointed out by the House in taking those depositions. The adverse party was to be summoned to attend to the taking them; but in this report it appears that *ex parte* evidence has been admitted as the foundation on which some of the decisions have been made.

Mr. MURRAY supported the motion for a recommitment. He observed that the matter, in its present state, was so incomplete that he could not see how the House could proceed upon it. One part of the evidence only is finished, and the report is made on that evidence. Now, we are told new testimony is offered; let the whole be brought into view at once, and then the House will be in a situation to judge.

Mr. PAGE was in favor of a further commitment of the subject; but whether to the committee who made the report, or to a new committee, he should not take upon him to say. With



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respect to the admission of any Head of a Department to the bar of this House, except in case of an impeachment, he would never consent to it. It would be a precedent of a most dangerous nature, tending to a destruction of all freedom of inquiry by committees.

Mr. FINDLEY observed, that the committee wished that Mr. Hodgdon should have been present, but he did not make his appearance; the committee therefore proceeded on the testimony they had, and as there is now new evidence brought forward, he thought it was proper that the report should be recommitted. As one of the committee, he should have no objections to such alterations as might appear proper on further and more complete investigation of the matter.

Mr. STEELE called for the reading of a clause in the memorial of the Secretary of War, which states that the committee had drawn conclusions from *ex parte* evidence. This being read, Mr. STEELE remarked on the want of candor towards the committee, which had been shown by some of the members in the course of their observations. He then adverted to the above clause respecting *ex parte* evidence, and observed that, with respect to the Secretary of War, it was not true that the committee had proceeded on *ex parte* evidence; that officer, said he, was notified of the meetings of the committee; he attended those meetings; he furnished the committee with papers and documents, &c.; and further, he was requested to detain officers in town whose testimony was necessary in the matter, and that he complained of some of those officers being detained by the delays of the committee from the recruiting service. With respect to Mr. Hodgdon the same cannot be said, as he was not then in the country.

Mr. STEELE then concluded by some additional remarks on the indelicacy manifested by some gentlemen in their treatment of the committee, and observed that he did not apply it to himself personally, but as it respected the committee at large, he thought proper to express the contempt which he conceived it merited.

Mr. DAYTON replied to Mr. STEELE. He repeated the substance of his original remarks on the report, and added, that in the course of the discussion he should attempt to show that the deductions made in several parts of the report were false. Mr. D. added, that whatever the gentleman last speaking might say, as one of the committee who signed the report, he was certainly implicated in whatever censure it merited.

The question for a recommitment was then agreed to, 30 to 22. And it was accordingly

*Resolved*, That the Committee of the Whole House, to whom was committed the report of the committee appointed to inquire into the causes of the failure of the expedition under Major General St. Clair, be discharged from the consideration thereof; and that the said report, together with the documents relating thereto, including the Letter of the Secretary of War, and the memorial of Samuel Hodgdon, be recommitted to Mr. FITZSIMONS, Mr. GILES, Mr. STEELE, Mr. CLARK, and Mr. FINDLEY.

THURSDAY, November 15.

Another member, to wit: THEODORE SEDGWICK, from Massachusetts, appeared, and took his seat in the House.

Mr. GOODBUE, from the committee appointed, presented a bill concerning the registering and recording of ships or vessels: which was received, read twice, and committed.

The SPEAKER laid before the House a Letter from the Secretary of War, accompanying an extract of a letter to him, from James Seagrove, temporary agent to the Creek Indians, dated the 28th ultimo, containing further information relative to Indian affairs in the Southern department; which were read, and ordered to lie on the table.

FRIDAY, November 16.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act regulating Foreign Coins, and for other purposes;" to which they desire the concurrence of this House. The message also communicated a Letter from Messrs. Hebert & Co., of the city of Paris, addressed to the Congress of the United States, stating certain propositions for the purchase of a quantity of vacant lands, the property of the United States.

The Letter referred to in the said Message was read, and ordered to lie on the table.

The bill sent from the Senate, entitled "An act regulating Foreign Coins, and for other purposes," was read the first time.

*Ordered*, That Mr. VENABLE and Mr. STEELE be added to the committee appointed to take into consideration that part of the PRESIDENT'S Speech which relates to the transmission of newspapers, and report whether any, and what, alterations may be necessary in the act passed last session for the regulation of the Post Office.

The House resumed the reading of the papers communicated by the Secretary of War on the 7th instant, relative to the Indians Northwest and South of the River Ohio, and to the troops in the service of the United States, and made a farther progress therein.

MONDAY, November 19.

Another member, to wit: JOHN FRANCIS MERCER, from Maryland, appeared, and took his seat in the House.

The bill sent from the Senate entitled "An act regulating Foreign Coins, and for other purposes," was read the second time, and ordered to be committed to a Committee of the Whole House on Monday next.

The SPEAKER laid before the House a Letter and Report from the Commissioners appointed by the act entitled "An act making provision for the reduction of the Public Debt," stating the amount of the purchases which have been made of the Public Debt, in pursuance of the powers vested in them by the said act; which were read, and ordered to lie on the table.

A memorial and address from the people called



*Report on Manufactures—The Public Lands.*

gradual augmentation of the product of the duties on imported articles. As, nevertheless, an abolition in some instances, and a reduction in others of duties which have been pledged for the Public Debt is proposed, it is essential that it should be accompanied with a competent substitute. In order to this, it is requisite that all the additional duties which shall be laid, be appropriated in the first instance, to replace all defalcations which may proceed from any such abolition or diminution. It is evident, at first glance, that they will not only be adequate to this, but will yield a considerable surplus. This surplus will serve,

1st. To constitute a fund for paying the bounties which shall have been decreed.

2d. To constitute a fund for the operations of a Board to be established, for promoting arts, agriculture, manufactures and commerce. Of this institution, different intimations have been given in the course of this Report. An outline of a plan for it shall now be submitted.

Let a certain annual sum be set apart, and placed under the management of Commissioners, not less than three, to consist of certain officers in the Government and their successors in office. Let these Commissioners be empowered to apply the fund confided to them to defray the expenses of the emigration of artists and manufacturers in particular branches of extraordinary importance, to induce the prosecution and introduction of useful discoveries, inventions and improvements, by proportionate rewards, judiciously held out and applied, to encourage by premiums, both honorable and lucrative, the exertions of individuals, and of classes, in relation to the several objects they are charged with promoting, and to afford such other aids to those objects, as may be generally designated by law. The Commissioners to render to the Legislature an annual account of their transactions and disbursements; and all such sums as shall not have been enapplied to the purposes of their trust, at the end of every three years, to revert to the Treasury. It may also be enjoined upon them not to draw out the money, but for the purpose of some specific disbursement. It may moreover be of use, to authorize them to receive voluntary contributions; making it their duty to apply them to the particular objects for which they may have been made, if any shall have been designated by the donors.

There is reason to believe that the progress of particular manufactures has been much retarded by the want of skilful workmen. And it often happens that the capitals employed are not equal to the purposes of bringing from abroad workmen of a superior kind. Here, in cases worthy of it, the auxiliary agency of Government would in all probability be useful. There are also valuable workmen in every branch, who are prevented from emigrating by the want of means. Occasional aids to such persons, properly administered, might be a source of valuable acquisitions to the country.

The propriety of stimulating by rewards the invention and introduction of useful improvements, is admitted without difficulty. But the success of attempts in this way must evidently depend much on the manner of conducting them.

It is probable, that the placing of the dispensation of those rewards under some proper discretionary direction, where they may be accompanied by collateral expedients, will serve to give them the surest efficacy. It seems impracticable to apportion by general rules, specific compensations for discoveries of unknown and disproportionate utility. The great use which may be made of a fund of this nature to procure and import foreign improvements is particularly obvious. Among these, the article of machines would form a most important item.

The operation and utility of premiums have been adverted to, together with the advantages which have resulted from their dispensation, under the direction of certain public and private societies. Of this, some experience has been had in the instance of the Pennsylvania Society for the Promotion of Manufactures and Useful Arts; but the funds of that association have been too contracted to produce more than a very small portion of the good to which the principles of it would have led. It may confidently be affirmed that there is scarcely anything which has been devised, better calculated to excite a general spirit of improvement than the institutions of this nature. They are truly invaluable.

In countries where there is great private wealth, much may be effected by the voluntary contributions of patriotic individuals; but in a community situated like that of the United States, the public purse must supply the deficiency of private resource. In what can it be so useful, as in promoting and improving the efforts of industry?

All which is humbly submitted.

ALEXANDER HAMILTON,  
*Secretary of the Treasury.*

#### THE PUBLIC LANDS.

THE SECRETARY OF STATE, to whom was referred by the PRESIDENT OF THE UNITED STATES the resolution of Congress requesting the President "to cause an estimate to be laid before Congress, at their next session, of the quantity and situation of the lands not claimed by the Indians, nor granted to nor claimed by any citizens of the United States, within the Territory ceded to the United States by the State of North Carolina, and within the Territory of the United States Northwest of the river Ohio," makes thereon the following Report:

The Territory ceded by the State of North Carolina to the United States, by deed bearing date the 25th day of February, 1790, is bounded as follows, to wit: Beginning in the boundary between Virginia and North Carolina, that is to say, in the parallel of latitude 36 degrees 30 minutes north from the Equator, on the extreme height of the Stone Mountain, where the said boundary or parallel intersects it, and running thence, along the said extreme height, to the place where Wataugo river breaks through it; thence, a direct course to the top of the Yellow Mountain, where Bright's road crosses the same; thence, along the ridge of

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the said mountain, between the waters of Doe river and the waters of Rock creek, to the place where the road crosses the Iron Mountain; from thence, along the extreme height of said mountain, to where Nolichucky river runs through the same; thence to the top of the Bald Mountain; thence, along the extreme height of the said mountain, to the Painted Rock, or French Broad river; thence, along the highest ridge of the said mountain, to the place where it is called the Great Iron or Smoky Mountain; thence, along the extreme height of the said mountain, to the place where it is called the Unaka Mountain, between the Indian towns of Cowee and Old Chota; thence, along the main ridge of the said mountain, to the southern boundary of the said State of North Carolina, that is to say, to the parallel of latitude 35 degrees north from the Equator; thence, westwardly, along the said boundary or parallel, to the middle of the river Mississippi; thence, up the middle of said river, to where it is intersected by the first-mentioned parallel of 36 degrees 30 minutes; thence, along the said parallel, to the beginning: which tract of country is a degree and a half of latitude from north to south, and about three hundred and sixty miles, in general, from east to west, as nearly as may be estimated from such maps as exist of that country.

The Indians having claims within the said tract of country are the Cherokees and Chickasaws, whose boundaries are settled by the Treaties of Hopewell, concluded with the Cherokees on the 28th day of November, 1785, and with the Chickasaws on the 10th day of January, 1786, and by the Treaty of Holston, concluded with the Cherokees, July 2, 1791. These treaties acknowledge to the said Indians all the lands westward and southward of the following lines, to wit: Beginning in the boundary between South and North Carolina, where the South Carolina Indian boundary strikes the same; thence, north, to a point from which a line is to be extended to the river Clinch, that shall pass the Holston, at the ridge which divides the waters running into Little river from those running into the Tennessee; thence, up the river Clinch, to Campbell's line, and, along the same, to the top of the Cumberland Mountain; thence, in a direct course, toward the Cumberland river, where the Kentucky road crosses it, as far as the Virginia line, or parallel, aforesaid, of 36 degrees and 30 minutes; thence, westwardly, or eastwardly, as the case shall be, along the said line or parallel, to the point thereof, which is due northeast from another point to be taken on the dividing ridge of Cumberland and Duck rivers, forty miles from Nashville; thence south west, to the point last mentioned, on the said dividing ridge, and along the said dividing ridge north westwardly, to where it is intersected by the said Virginia line or parallel of 36 degrees 30 minutes. So that there remained to the United States the right of pre-emption of the lands westward and southward of the said lines, and the absolute right to those northward thereof, that is to say, to one parcel to the eastward, somewhat triangular, comprehending the counties of Sullivan and Washington, and parts

of those of Greene and Hawkins, running about one hundred and fifty miles from east to west, on the Virginia boundary as its base, and between eighty and ninety miles from north to south where broadest, and containing, as may be conjectured, without pretending to accuracy, between seven and eight thousand square miles, or about five millions of acres: And to one other parcel, to the westward, somewhat triangular also, comprehending parts of the counties of Sumner, Davidson, and Tennessee, the base whereof extends about one hundred and fifty miles also, from east to west, on the same Virginia line, and its height from north to south about fifty-five miles, and so may comprehend about four thousand square miles, or upwards of two and a half millions of acres of land.

Within these triangles, however, are the following claims of citizens, reserved by the deed of cession, and consequently forming exceptions to the rights of the United States:

I. Appropriations by the State of North Carolina for their Continental and State officers and soldiers.

II. Grants and titles to grants vested in individuals by the laws of the State.

III. Entries made in Armstrong's office, under an act of that State, of 1783, for the redemption of specie and other certificates.

The claims covered by the first reservation are—

1st. The bounties in land given by the said State of North Carolina to their Continental line, in addition to those given by Congress. These were to be located within a district bounded northwardly by the Virginia line, and southwardly by a line parallel thereto, and fifty-five miles distant; westwardly by the Tennessee; and eastwardly by the meridian of the intersection of the Virginia line and Cumberland river. Grants have accordingly issued for 1,239,498 acres, and warrants for the further quantity of 1,549,726 acres, making, together, 2,789,224 acres.

It is to be noted that the southwestern and southeastern angles of this district, constituting perhaps a fourth or fifth of the whole, are south of the lines established by the treaties of Hopewell and Holston, and consequently in a country wherein the Indian title is acknowledged and guaranteed by the United States. No information is received of the exact proportion of the locations made within these angles.

2d. Bounties in land to Evans's battalion, raised for State purposes. These were to be taken west of Cumberland Mountain. The locations are not yet made.

The second reservation covers the following claims:

1. Lands for the Surveyor General's fees for laying out the military bounties, to be located in the military district. The grants already issued on this account amount to 30,203 acres.

2. Grants to Isaac Shelby, Anthony Bledsoe, and Absalom Tatum, Commissioners for laying out the military bounties; and to guards, chain-carriers, markers, and hunters, who attended them



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already issued to the amount of 65,932 acres, located in the military district.

3. Entries in Washington county, amounting to 746,362½ acres; for 214,541½ of which, grants have already issued. Of the remaining 531,821½ acres, a considerable proportion were declared void by the laws of the State, and were particularly excluded from the cover of the reservation in the deed of cession by this clause in it, to wit: "*Provided*, That nothing herein contained shall extend, or be construed to extend, to the making good any entry or entries, or any grant or grants, heretofore declared void by any act or acts of the General Assembly of this State." Still it is to be considered that many of these persons have settled and improved the lands, are willing, as is said, to comply with such conditions as shall be required of other purchasers, form a strong barrier on the new frontier acquired by the treaty of Holston, and are, therefore, objects meriting the consideration of the Legislature.

4. Entries in Sullivan county, amounting to 240,624 acres; for 173,332 acres of which grants have already issued. Of the remaining entries, many are certified void, and others understood to be lapsed, or otherwise voidable under the laws of the State.

5. Certain pre-emption rights, granted to the first settlers of Davidson county, on Cumberland river, amounting to 309,760 acres.

6. A grant of 200,000 acres to Richard Henderson and others, on Powel's and Clinch's rivers, extending up Powel's river in a breadth of not less than four miles, and down Clinch's from their junction in a breadth not less than twelve miles. A great part of this is within the Indian territory.

Among the grants of the State now under recapitulation, as forming exceptions out of the absolute rights of the United States, are not to be reckoned here two grants of 2,000 each to Alexander Martin and David Wilson, adjacent to the lands allotted to the officers and soldiers; nor a grant of 25,000 acres on Duck river to the late Major General Greene; because they are wholly within the Indian territory, as acknowledged by the treaties of Hopewell and Holston.

The extent of the third reservation in favor of entries made in Armstrong's office is not yet entirely known, nor can be until the 20th of December, 1792, the last day given for perfecting them. The sum of certificates, however, which had been paid for these warrants into the Treasury of the State, before the 20th day of May, 1790, reaches, in all probability, near to their whole amount. This was £373,649 6s. 5d. currency of that State, and, at the price of £10 the hundred acres, established by law, shows that warrants had issued for 3,736,493 acres. For 1,762,660 acres of these, grants have passed, which appear to have been located partly in the counties of Greene and Hawkins, and partly in the country from thence to the Mississippi, as divided into Eastern, Middle, and Western Districts. Almost the whole of these locations are within the Indian territory. Besides the warrants paid for as before mentioned, it is known that there are some others outstanding and not

paid for; but, perhaps, these need not be taken into account, as payment of them has been disputed, on the ground that the lands being within the Indian territory, cannot now be delivered to the holders of the warrants.

On a review of all the reservations, after making such conjectural allowance as our information authorizes, for the proportion of them, which may be within the Indian boundaries; it appears probable they cover all the ceded lands susceptible of culture and cleared of the Indian title; that is to say, all the habitable parts of the two triangles before mentioned, excepting only the lands south of French Broad and Big Pigeon rivers. These were part of the tract appropriated by the laws of the State to the use of the Indians, whose title being purchased at the late treaty of Holston, they are now free to be disposed of by the United States, and are probably the only lands open to their disposal within this Southwestern Territory which can excite the attention of purchasers. They are supposed to amount to about 300,000 acres, and we are told that three hundred families have already set down upon them without right or license.

The territory of the United States Northwest of the Ohio is bounded on the south by that river, on the east by Pennsylvania, on the north and west by the lines which divide the United States from the dominions of Great Britain and Spain.

The part of this territory occupied by Indians is north and west of the following lines, established with the Wyandots, Delawares, Chippewas, and Ottawas, by the treaty of Fort McIntosh, and with the Shawanese, by that of the Great Miami, to wit: beginning at the mouth of the Cuyahoga, and running up the river to the portage between that and the Tuscaroras branch of the Muskingum; then down the said branch to the forks at the crossing place above Fort Lawrence; then westwardly, towards the portage of the Big Miami, to the main branch of that river; then down the Miami to the fork of that river next below the Old Fort which was taken by the French in 1752; thence due west to the river De la Panse, and down that river to the Wabash. So far, the lines are precisely defined, and the whole country southward of these lines and eastward of the Wabash cleared of the claims of those Indians, as it is also of those of the Pottawatomies and Sacs by the treaty of Muskingum. How far on the other side of the Wabash the southern boundary of the Indians has been defined we know not. It is only understood, in general, that their title to the lower country, between that river and the Illinois, has been formerly extinguished by the French while in their possession. As to that country, then, and what lies still beyond the Illinois, it would seem expedient that nothing be done until a fair ascertainment of boundary can take place by mutual consent between us and the Indians interested.

The country within the Wabash, the Indian line before described, the Pennsylvania line, and the Ohio, contains, on a loose estimate, about 55,000 square miles, or 35,000,000 of acres.

During the British government, great numbers



*The Public Lands.*

of persons had formed themselves in companies, under different names, such as the Ohio, the Wabash, the Illinois, the Mississippi, or Vandalia Companies, and had covered with their applications a great part of this territory. Some of them had obtained orders, on certain conditions, which, having never been fulfilled, their titles were never completed by grants; others were only in a state of negotiation when the British authority was discontinued. Some of these claims being already under a special reference, by order of Congress, and all of them probably falling under the operation of the same principles, they will not be noticed in the present Report.

The claims of citizens to be here stated will be—

I. Those reserved to the States by their deeds of cession.

II. Those which have arisen under the Government of the United States themselves.

Under the first head presents itself the tract of country from the completion of the 41st degree to 42 degrees 2 minutes of north latitude, and extending from the Pennsylvania line before mentioned one hundred and twenty miles westward, not mentioned in the deed of Connecticut, while all the country westward thereof was mentioned to be ceded. About two and a half millions of acres of this may, perhaps, be without the Indian lines before mentioned.

1. A reservation in the deed of Virginia of the possessions and titles of the French and Canadian inhabitants, and other settlers of the Kaskaskias, St. Vincennes, and the neighboring villages, who had professed themselves citizens of Virginia, which rights have been settled by an act of the last session of Congress, entitled "An act for granting lands to the inhabitants and settlers at Vincennes and the Illinois country, in the Territory Northwest of the Ohio, and for confirming them in their possessions." These lands are in the neighborhood of the several villages.

2. A reservation in the same deed of a quantity, not exceeding 150,000 acres of land, for General George Rogers Clark, and the officers and soldiers of his regiment, who were at the reduction of Kaskaskias and St. Vincennes, to be laid off in such place, on the northwest side of the Ohio, as a majority of the officers should choose. They chose they should be laid off on the river adjacent to the rapids, which accordingly has been done.

3. A reservation in the same deed, of lands between the Scioto and Little Miami, to make up to the Virginia troops on Continental establishment the quantity which the good lands in their southern allotment might fall short of the bounties given them by the laws of that State. By a statement of the 16th September, 1788, it appears that 724,045½ acres had been surveyed for them on the southeastern side of the Ohio; that 1,395,385½ acres had been surveyed on the northwestern side; that warrants for 649,649 acres more, to be laid off on the same side of the river, were in the hands of the Surveyor, and it was supposed there might still be some few warrants not yet presented; so that this reservation may be stated at 2,045,034½ acres, or perhaps some small matter more.

III. The claims of individual citizens, derived from the United States themselves, are the following:

1. Those of the Continental Army, founded on the resolutions of Congress of September 16, 1776, August 12, and September 30, 1780, and fixed by the ordinance of May 20, 1785. The resolution of October 22, 1787, and the supplementary ordinance of July 9, 1788, in the seven ranges of townships, beginning at a point on the Ohio, due north from the western termination of a line then lately run, as the southern boundary of Pennsylvania; or, in a second tract of 1,000,000 of acres, bounded east by the seventh range of the said townships, south by the lands of Cutler and Sargent, north by an extension of the northern boundary of the said townships, and going towards the west so far as to include the above quantity; or, lastly, in a third tract of country, beginning at the mouth of the Ohio, and running up the river Mississippi to the river Au Vause; thence up the same till it meets a west line from the mouth of the Little Wabash; thence along that line to the Great Wabash; thence down the same and the Ohio to the beginning. The sum total of the said military claims is 1,851,800 acres.

2. Those of the individuals who made purchases of land at New York, within the said seven ranges of townships, according to the resolutions of Congress of April 21, 1787, and the supplementary ordinance of July 9, 1788; which claims amount to 150,896 acres.

3. The purchase of one million and a half acres of land by Cutler and Sargent, on behalf of certain individuals associated under the name of the Ohio Company. This begins where the Ohio is intersected by the western boundary of the seventh range of townships, and runs due north on that boundary 1,306 chains and 25 links; thence, due west, to the western boundary of the seventeenth range of townships; thence, due south, to the Ohio, and up that river to the beginning; the whole area containing 1,781,760 acres of land, whereof 281,760 acres, consisting of various lots and townships, are reserved to the United States.

4. The purchase by the same Cutler and Sargent, on behalf also of themselves and others. This begins at the northeastern angle of the tract of their purchase before described, and runs due north to the northern boundary of the tenth township from the Ohio; thence, due west, to the Scioto; thence, down the same, and up the Ohio, to the southwestern angle of the said purchase before described, and along the western and northern boundaries thereof to the beginning; the whole area containing 4,901,480 acres of land; out of which, however, five lots, to wit: Nos. 8, 11, 16, 26, and 29, of every township of six miles square, are retained by the United States, and out of the whole are retained the three townships of Gnadenhutzen, Schoenbrun, and Salem; and certain lands around them, as will be hereafter mentioned.

5. The purchase of John Cleves Symmes, bounded on the west by the Great Miami; on the south by the Ohio; on the east by a line which is to begin on the bank of the Ohio, twenty miles

*Obtaining Fresh from Salt Water.*

from the mouth of the Great Miami, as measured along the several courses of the Ohio, and to run parallel with the general course of the said Great Miami; and on the north by an east and west line so run as to include 1,000,000 of acres in the whole area, whereof five lots, numbered as before mentioned, are reserved out of every township by the United States.

It is suggested that this purchaser, under color of a first and larger proposition to the Board of Treasury, which was never closed, (but, pending that proposition,) sold sundry parcels of land between his eastern boundary, before mentioned, and the Little Miami, and that the purchasers have settled thereon. If these suggestions prove true, the settlers will perhaps be thought to merit the favor of the Legislature, as purchasers for valuable consideration, and without notice of the defect of title.

The contracts for lands, which were at one time under consideration with Messrs. Flint and Parker, and with Colonel Morgan, were never so far prosecuted as to bring either party under any obligation. All proceedings thereon were discontinued at a very early stage, and it is supposed that no further views exist with any other party. These, therefore, are not to be enumerated among existing claims.

6. Three townships were reserved by the ordinance of May 20, 1785, adjacent to Lake Erie, for refugees from Canada and Nova Scotia, and for other purposes, according to resolutions of Congress, made or to be made on that subject. These would, of course, contain 69,120 acres.

7. The same ordinance of May 20, 1785, appropriated the three towns of Gnadenhutten, Schoenbrun, and Salem, on the Muskingum, for the Christian Indians formerly settled there, or the remains of that Society, with the grounds round about them; and the quantity of the said circumjacent grounds, for each of the said towns, was determined by the resolution of Congress, of September 3, 1788, to be so much as, with the plat of its respective town, would make up 4,000 acres; so that three towns and their circumjacent lands were to amount to 12,000 acres. This reservation was accordingly made out of the large purchase of Cutler and Sargent, which comprehended them. The Indians, however, for whom the reservation was made, have chosen to emigrate beyond the limits of the United States, so that the lands reserved for them still remain to the United States.

On the whole, it appears that the United States may rightfully dispose of all the lands between the Wabash and the Ohio, Pennsylvania, the forty-first parallel of latitude, and the Indian lines described in the treaties of the Great Miami, and Fort McIntosh, with exceptions only of the rights saved by the deed of cession of Virginia, and of all rights legally derived from the Government of the United States; and, supposing the part south of the Indian lines to contain, as before conjectured, about 35,000,000 of acres, and that the claims of citizens before enumerated may amount to between 13,000,000 and 14,000,000, there remains at

the disposal of the United States upwards of 21,000,000 of acres in this northwestern quarter.

And though the want of actual surveys of some parts, and of a general delineation of the whole on paper, so as to exhibit to the eye the locations, forms, and relative positions of the rights before described, may prevent our forming a well-defined idea of them at this distance, yet, on the spot, these difficulties exist but in a small degree. The individuals there employed in the details of buying, selling, and locating, possess local informations of the parts which concern them, so as to be able to keep clear of each other's rights; or, if in some instances a conflict of claims should arise, from any want of certainty in their definition, a local Judge will doubtless be provided to decide them without delay, at least provisionally. Time, instead of clearing up these uncertainties, will cloud them the more, by the death or removal of witnesses, the disappearance of lines and marks, change of parties, and other casualties.

TH. JEFFERSON,  
*Secretary of State.*

NOVEMBER 8, 1791.

## OBTAINING FRESH FROM SALT WATER.

The SECRETARY OF STATE, to whom was referred by the House of Representatives of the United States, the petition of Jacob Isaacks, of Newport, in Rhode Island, has examined into the truth and importance of the allegations therein set forth, and makes thereon the following Report:

The petition sets forth, that, by various experiments, with considerable labor and expense, he has discovered a method of converting salt water into fresh, in the proportion of eight pints out of ten, by a process so simple that it may be performed on board of vessels at sea, by the common iron cabbage, (with small alteration,) by the same fire and in the same time which is used for cooking the ship's provisions; and offers to convey to the Government of the United States a faithful account of his art, or secret, to be used by or within the United States, on their giving to him a reward suitable to the importance of the discovery, and, in the opinion of Government, adequate to his expenses and the time he has devoted to the bringing it into effect.

In order to ascertain the merit of the petitioner's discovery, it becomes necessary to examine the advances already made in the art of converting salt water into fresh.

Lord Bacon, to whom the world is indebted for the first germs of so many branches of science, had observed, that, with a heat sufficient for distillation, salt will not rise in vapor, and that salt water distilled, is fresh. And it would seem that all mankind might have observed, that the earth is supplied with fresh water chiefly by exhalation from the sea, which is in fact an insensible distillation effected by the heat of the sun. Yet this, though the most obvious, was not the first idea in the essays for converting salt water into fresh. Filtration was tried in vain, and congelation could



*Indian Hostilities.*

the same furnace was used, and fuel from the same parcel. It yielded, as his had done, thirty-one pints of fresh water in eleven minutes more of time, and with ten pounds less of wood.

On the 24th of March, Mr. Isaacks performed a third experiment. For this, a common iron pot, of three and a half gallons, was fixed in brick-work, and the flue from the hearth wound once round the pot spirally, and then passed off up a chimney. The cap was of tin, and a straight tin tube of about two inches diameter, passing obliquely through a barrel of water, served instead of a worm. From sixteen pints of sea water he drew off fifteen pints of fresh water, in two hours and fifty-five minutes, with three pounds of dry hickory and eight pounds of seasoned pine. This experiment was also repeated the next day, with the same apparatus and fuel from the same parcel, but without the mixture. Sixteen pints of sea water yielded, in like manner, fifteen pints of fresh, in one minute more of time, and with half a pound less of wood. On the whole, it was evident that Mr. Isaacks's mixture produced no advantage, either in the process or result of the distillation.

The distilled water in all these instances was found, on experiment, to be as pure as the best pump water of the city. Its taste, indeed, was not as agreeable, but it was not such as to produce any disgust. In fact we drink, in common life, in many places, and under many circumstances, and almost always at sea, a worse tasted and probably a less wholesome water.

The obtaining fresh from salt water, for ages was considered as an important desideratum for the use of navigators. The process for doing this by simple distillation is so efficacious, the erecting an extempore still with such utensils as are found on board of every ship, is so practicable, as to authorize the assertion that this desideratum is satisfied to a very useful degree. But, though this has been done for upwards of thirty years; though its reality has been established by the actual experience of several vessels which have had recourse to it, yet neither the fact nor process is known to the mass of seamen, to whom it would be the most useful, and for whom it was principally wanted. The Secretary of State is therefore of opinion that, since the subject has been brought under observation, it should be made the occasion of disseminating its knowledge generally and effectually among the sea-faring citizens of the United States. The following is one of the many methods which might be proposed for doing this:

Let the clearance for every vessel sailing from the ports of the United States be printed on paper, on the back whereof shall be a printed account of the essays which have been made for obtaining fresh from salt water, mentioning briefly those which were unsuccessful, and, more fully, those which have succeeded; describing the methods which have been found to answer for constructing extempore stills of such implements as are generally on board of every vessel, with a recommendation, in all cases where they shall have occasion to resort to this expedient for obtaining water, to publish the result of their trial in some gazette

on their return to the United States, or communicate it for publication to the office of the Secretary of State, in order that others may, by their success, be encouraged to make similar trials, and be benefited by any improvements or new ideas which may occur to them in practice.

THOMAS JEFFERSON.

PHILADELPHIA, Nov. 21, 1791.

## INDIAN HOSTILITIES.

UNITED STATES, January 16, 1792.

SIR: As the circumstances which have engaged the United States in the present Indian War may some of them be out of the public recollection, and others perhaps be unknown, it may appear advisable that you prepare and publish, from authentic documents, a statement of those circumstances, as well as of the measures which have been taken, from time to time, for the re-establishment of peace and friendship.

When the community are called upon for considerable exertions, to relieve a part which is suffering under the hand of an enemy, it is desirable to manifest that due pains have been taken by those intrusted with the administration of their affairs to avoid the evil.

G. WASHINGTON.

*The Secretary for the  
Department of War.*

The Causes of the existing Hostilities between the United States and certain Tribes of Indians, Northwest of the Ohio, stated and explained from official and authentic Documents, and published in obedience to the orders of the President of the United States.

A recurrence to the Journals of the United States in Congress assembled, of the early stages of the late war, will evince the public solicitude to preserve peace with the Indian tribes, and to prevent their engaging in a contest in which they were no wise interested.

But though partial treaties or conventions were formed with some of the Northern and Western tribes, in the years 1775 and 1776, yet those treaties were too feeble to resist the powerful impulses of a contrary nature, arising from a combination of circumstances at that time; and accordingly all the various Indian nations (the Oneidas, Tuscaroras, and a few individuals of the Delawares, excepted) lying on our frontiers, from Georgia to Canada, armed against us.

It is yet too recent to have been forgotten, that great numbers of inoffensive men, women, and children, fell a sacrifice to the barbarous warfare practised by the Indians, and many others were dragged into a deplorable captivity.

Notwithstanding that these aggressions were entirely unprovoked, yet as soon as the war ceased with Great Britain, the United States, instead of indulging any resentments against the Indian nations, sought only how to establish a liberal peace with all the tribes throughout their limits.

Early measures were accordingly taken for this



*Defeat of General St. Clair.*

Cornplanter, although zealously desirous of executing their mission, encountered difficulties of a particular nature, which were insurmountable, and prevented the execution of their orders.

Major General St. Clair, in the month of April, sent messages from Fort Harmar to the Delawares, expressive of the pacific designs of the United States to all the Indian tribes.

A treaty was held at the Painted Post, by Colonel Pickering, in June, 1791, with a part of the Six Nations, at which the humane intentions of the General Government towards them particularly, and the Indian tribes generally, were fully explained.

Captain Hendricks, a respectable Indian residing with the Oneidas, appearing zealously disposed to attempt convincing the hostile Indians of their mistaken conduct, was accordingly sent for that purpose, but was frustrated by unforeseen obstacles in his laudable attempts.

The different measures which have been recited, must evince that, notwithstanding the highly culpable conduct of the Indians in question, the Government of the United States, uninfluenced by the resentment or any false principles which might arise from a consciousness of superiority, adopted every proper expedient to terminate the Indian hostilities, without having recourse to the last extremity; and, after being compelled to resort to it, has still kept steadily in view the re-establishment peace, as its primary and sole object.

Were it necessary to add proofs of the pacific and humane dispositions of the General Government towards the Indian tribes, the treaties with the Creeks and with the Cherokees might be cited as demonstrative of its moderation and liberality.

The present partial Indian war is a remnant of the late general war, continued by a number of separate banditti, who, by the incessant practice of fifteen years, seem to have formed inveterate and incurable habits of enmity against the frontier inhabitants of the United States.

To obtain protection against lawless violence, was a main object for which the present Government was instituted: it is, indeed, a main object of all Governments. A frontier citizen possesses as strong claims to protection as any other citizen. The frontiers are the vulnerable parts of every country; and the obligation of the Government of the United States, to afford the requisite protection, cannot be less sacred in reference to the inhabitants of their Western, than to those of their Atlantic frontier.

It will appear, from a candid review of this subject, that the General Government could no longer abstain from attempting to punish the hostile Indians.

The ill success of the attempts for this purpose, is entirely unconnected with the justice or policy of the measure. A perseverance in exertions to make the refractory Indians at last sensible that they cannot continue their enormous outrages with impunity, appears to be as indispensable, in the existing posture of things, as it will be advisable, whenever they shall manifest symptoms of a more amicable disposition, to convince them, by decisive

proofs, that nothing is so much desired by the United States as to be at liberty to treat them with kindness and beneficence.

H. KNOX,

*Secretary of War.*

WAR DEPARTMENT, Jan. 26, 1792.

## DEFEAT OF GENERAL ST. CLAIR.

UNITED STATES, December 12, 1791.

*Gentlemen of the Senate, and  
of the House of Representatives:*

It is with great concern that I communicate to you the information received from Major General St. Clair, of the misfortune which has befallen the troops under his command.

Although the national loss is considerable, according to the scale of the event, yet it may be repaired without great difficulty, excepting as to the brave men who have fallen on the occasion, and who are a subject of public as well as private regret.

A further communication will shortly be made of all such matters as shall be necessary to enable the Legislature to judge of the future measures which it may be proper to pursue.

G. WASHINGTON.

A Letter from General St. Clair, dated

FORT WASHINGTON, October 6, 1791.

SIR: I have now the satisfaction to inform you that the Army moved from Fort Hamilton, the name I have given to the fort on the Miami, on the 4th, at eight in the morning, under the command of General Butler.

The order of march and encampment I had regulated before, and on the third returned to this place to get up the militia. They marched yesterday, and consist of but about three hundred men, as you will see by the enclosed abstract of the muster. I have reason to believe, however, that at least an equal number will be up here by the 10th, and I have left orders for their following us. The monthly return should have accompanied this Letter, but it was not ready when I left camp, and has not been forwarded since. I have hitherto found it impossible to reduce the officers commanding corps to punctuality with respect to their returns, but they are mending. Our number, after deducting the garrisons of this place and Fort Hamilton, are about two thousand, exclusive of the militia. I trust, I shall find them sufficient, and should the rest of the militia come on, it will make the matter pretty certain; but the season is now so far advanced, that I fear the intermediate posts, which would, indeed, have been highly necessary, it will be impossible to establish. In that, however, I must be governed by circumstances, of which I will take care that you shall be apprised in due time. Should the enemy come to meet us, which seems to be expected, and be discomfited, there will be no difficulties, but if they expect us at the Miami villages, the business will wear another face, and the intermediate posts become more essential.

*Defeat of General St. Clair.*

Since the Quartermaster has been here, and got into his geers, which it took him a little time to do, I am very well satisfied with him, and do believe he will answer the description which you was pleased to give me of him; his business seems now to be well arranged.

In order to communicate with some degree of certainty with your office, I have directed Captain Buel, when he arrives, to send a Sergeant and twelve men to a house that has been newly erected, half-way between this place and Lexington, to each of which two men are to be sent off on every Monday morning to carry despatches. Those for the War Office, or any other public letters, to be put into the hands of Mr. Charles Wilkins, merchant of Lexington, who has engaged to forward all I have occasion to send, regularly, once a fortnight; and should you, sir, think proper to use the same route for any of yours, if they are sent to his care, he will forward them to me. I have been led to prefer this channel of communication to that of the river, because it appears to be rather the more certain of two, though it may be a little more tedious, and because desertion continues to prevail among the troops, and the sending small parties to such a distance gives great opportunity to effect it. General Butler informs me that no less than twenty-one went off the night before the Army moved from Fort Hamilton. I am this moment, setting out for the Army, which I hope to overtake to-morrow evening, and will write to you again, as soon after as may be.

With great regard and respect, I have the honor to be, sir, your very humble servant,

ARTHUR ST. CLAIR.

The Hon. H. KNOX, *Secretary of War.*

*A Letter from General St. Clair, dated Camp, 81 miles advanced of Fort Washington, November 1, 1791.*

Sir: Since I had the honor to write to you on the 21st instant, nothing very material has happened, and indeed, I am at present so unwell, and have been so for some time past, that I could ill detail it, if it had happened, not that that space of time has been entirely barren of incidents, but as few of them have been of the agreeable kind, I beg you to accept a sort of journal account of them, which will be the easiest for me.

On the 22d, the indisposition that had hung about me for some time, sometimes appearing as a bilious cholic, and sometimes as a rheumatic asthma, to my great satisfaction changed to a gout in the left arm and hand, leaving the breast and stomach perfectly relieved, and the cough, which had been excessive, entirely gone. This day, Mr. Ellis, with sixty militia from Kentucky, joined the Army, and brought up a quantity of flour and beef.

23d. Two men taken in the act of deserting to the enemy, and one for shooting another soldier, and threatening to kill an officer, were hanged upon the grand parade, the whole Army being drawn out; since the Army has halted, the country around this, and a-head for fifteen miles, has been well examined, it is a country which, had we arrived a month sooner in it, and with three times

the number of animals, they would have been all fat now.

24th. Named the fort, Jefferson, (it lies it lat. 50. 4. 22 N.) and marched the same Indian path, serving to conduct us about six miles, and encamped on good ground and an excellent position; a rivulet in front and a very large drain, which would at the proper season afford forage for a thousand horses on the left. So ill this day that I had much difficulty in keeping with the Army.

25th. Very hard rains last night, obliged to halt to-day on account of provisions, for though the soldiers may be kept pretty easy in camp under the expectation of provisions arriving, they cannot bear to march in advance, and take none along with them; received a letter from Mr. Hodgson, by express; 1,300 pounds flour will arrive the 27th.

26th. A party of militia, sent to reconnoitre, fell in with five Indians and suffered them to slip through their fingers. In their camp, articles to the value of \$22 were found and divided. The Virginia battalion is melting down very fast, notwithstanding the promises of the men to the officers. Thirteen have been discharged by Colonel Darke to-day.

27th. Gave orders for enlisting the levies, with the condition of serving out their time in the present corps. Payamingo arrived in camp with his warriors. I was so unwell, could only see him and bid him welcome; but entered on no business. Considerable dissatisfaction among the levies about their enlistments.

28th. Some clothing sent for to Fort Washington for the recruits arrived; was begun to be distributed, and will have a good effect; but the enlisting the levies does not meet with the encouragement that might have been expected. It is not openly complained of by the officers, but it is certainly privately by some of high rank; and the measure of tempting them with warm clothing, condemned. Mr. Hodgson writes me, that he is sending forward a quantity of woolen overalls and socks, by General Butler's orders. I have ordered them to be deposited at Fort Jefferson. Some few Indians about us, probably those the militia fell in with a day or two ago. Two of the levies were fired upon about three miles off; one killed; two of the militia likewise. One of them got in, and the other missing, supposed to be taken.

29th. Payamingo and his people, accompanied by Captain Sparks, and four good riflemen, going on a scout, they do not propose to return under ten days, unless they sooner succeed in taking prisoners.

30th. The Army moved about nine o'clock, and with much difficulty made seven miles, having left a considerable part of the tents by the way; the provision made by the Quartermaster for that purpose was not adequate—three days' flour issued to the men, to add the horses that carried it to his arrangements—the Indian road still with us; the course of this day N. 25 W.

31st. This morning about sixty of the militia deserted; it was at first reported that one-half of them had gone off, and that their design was to plunder the convoys which were upon the road.



*Defeat of General St. Clair.*

I detached the first regiment in pursuit of them, with orders to Major Hamtramck to send a sufficient guard back with Benham (a Commissary) whenever he met with them, and follow them about twenty-five miles below Fort Jefferson, or until he met the second convoy, and then return and join the Army. Benham arrived last night; and to-day, November 1st, the Army is halted to give the road-cutters an opportunity of getting some distance a-head, and that I might write to you. I am this day considerably recovered, and hope that it will turn out, what I at first expected it would be, a friendly fit of the gout come to relieve me from every other complaint.

Yesterday I was favored with your's of the 28th and 29th of September. I have enclosed my communications with the old and new contractors, and their answers. My orders from the posts to them are not yet definitive, but they will be very soon. In the mean time, I expect they are both at work.

With great respect, I have the honor to be, sir, your most obedient servant,

ARTHUR ST. CLAIR.

To the Hon. H. KNOX, *Secretary of War.*

P. S. Your Letters for General Wilkinson and General Scott, Mr. Jones and Mr. Brown, are sent back; and the public thanks, in the name of the PRESIDENT, presented to General Wilkinson, agreeably to your directions.

*Copy of a Letter from Major General St. Clair, to the Secretary for the Department of War.*

FORT WASHINGTON, November 9, 1791.

SIR: Yesterday afternoon the remains of the Army under my command got back to this place, and I have now the painful task to give you an account of as warm, and as unfortunate an action as almost any that has been fought, in which every corps was engaged and worsted, except the first regiment, that had been detached upon a service I had the honor to inform you of in my last despatch, and had not joined me.

On the 3d instant, the Army had reached a creek about twelve yards wide running to the southward of west, which I believe to have been the river St. Mary, that empties into the Miami of the lake; arrived at the village about four o'clock in the afternoon, having marched near nine miles, and were immediately encamped upon a very commanding piece of ground in two lines, having the above-mentioned creek in front, the right wing composed of Butler's, Clarke's, and Patterson's battalions, commanded by Major General Butler, formed the first line, and the left wing consisting of Bedinger's and Gaither's battalions, and the second regiment commanded by Colonel Darke formed the second line, with an interval between them of about seventy yards, which was all the ground would allow.

The right flank was pretty well secured by the creek, a steep bank, and Faulkener's corps, some of the cavalry and their picquets cover the left flank; the militia were thrown over the creek, and advanced about one quarter of a mile, and encamped in the same order; there were a few

Indians who appeared on the opposite side of the creek, but fled with the utmost precipitation on the advance of the militia; at this place, which I judged to be about fifteen miles from the Miami village, I had determined to throw up a slight work, the plan of which was concerted that evening with Major Ferguson, wherein to have deposited the men's knapsacks, and every thing else that was not of absolute necessity, and to have moved on to attack the enemy as soon as the first regiment was come up, but they did not permit me to execute either, for on the 4th, about half an hour before sunrise, and when the men had been just dismissed from the parade (for it was a constant practice to have them all under arms a considerable time before day-light) an attack was made upon the militia; those gave way in a very little time, and rushed into camp, through Major Butler's battalion, which, together with part of Clark's, they threw into considerable disorder, and which, notwithstanding the exertions of both those officers, was never altogether remedied, the Indians following close at their heels; the fire, however, of the front line checked them, but almost instantly a very heavy attack began upon that line, and in few minutes it was extended to the second likewise; the great weight of it was directed against the centre of each where the artillery was placed, and from which the men were repeatedly driven with great slaughter; finding no great effect from our fire, and confusion beginning to spread from the great number of men who were falling in all quarters, it became necessary to try what could be done by the bayonet.

Lieutenant Colonel Darke was accordingly ordered to make a charge with part of the second line, and to turn the left flank of the enemy. This was executed with great spirit. The Indians instantly gave way, and were driven back three or four hundred yards; but, for want of a sufficient number of riflemen to pursue this advantage, they soon returned, and the troops were obliged to give back in their turn. At this moment, they had entered our camp by the left flank, having pursued back the troops that were posted there.

Another charge was made here, by the second regiment, Butler's and Clark's battalions, with equal effect, and it was repeated several times, and always with success; but in all of them many men were lost, and particularly the officers, which, with some raw troops, was a loss altogether irremediable. In that I just spoke of, made by the second regiment and Butler's battalion, Major Butler was dangerously wounded, and every officer of the second regiment fell, except three, one of which, Mr. Greateon, was shot through the body.

Our artillery being now silenced, and all the officers killed, except Captain Ford, who was badly wounded, more than half of the Army fallen, being cut off from the road, it became necessary to attempt the regaining it, and to make a retreat, if possible. To this purpose, the remains of the Army were formed, as well as circumstances would admit, towards the right of the encampment; from which, by the way of the second



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line, another charge was made upon the enemy, as if with the design to turn their right flank, but, in fact, to gain the road; this was effected; and, as soon as it was open, the militia took along it, followed by the troops, Major Clark, with his battalion, covering the rear.

The retreat, in those circumstances, was, you may be sure, a very precipitate one: it was, in fact, a flight. The camp and the artillery were abandoned, but that was unavoidable, for not a horse was left alive to have drawn it off, had it otherwise been practicable. But the most disgraceful part of the business is, that the greatest part of the men threw away their arms and accoutrements, even after the pursuit, which continued about four miles, had ceased. I found the road strewed with them for many miles, but was not able to remedy it; for, having had all my horses killed, and being mounted upon one that could not be pricked out of a walk, I could not get forward myself, and the orders I sent forward, either to halt the front, or to prevent the men from parting with their arms, were unattended to. The route continued quite to Fort Jefferson, 29 miles, which was reached a little after sun-setting. The action began about half an hour before sunrise, and the retreat was attempted at half an hour after nine o'clock.

I have not yet been able to get returns of the killed and wounded; but Major General Butler, Lieutenant Colonel Oldham, of the militia, Major Ferguson, Major Hart, and Major Clarke, are among the former. Colonel Sargent, my Adjutant General, Lieutenant Colonel Darke, Lieutenant Colonel Gibson, Major Butler, and the Viscount Malletie, who served me as an aid-de-camp, are among the latter, and a great number of Captains and subalterns in both.

I have now, sir, finished my melancholy tale—a tale that will be felt sensibly by every one that has sympathy for private distress, or for public misfortune. I have nothing, sir, to lay to the charge of the troops but their want of discipline, which, from the short time they had been in service, it was impossible they should have acquired, and which rendered it very difficult, when they were thrown into confusion, to reduce them again to order, which is one reason why the loss has fallen so heavy upon the officers, who did every thing in their power to effect it. Neither were my own exertions wanting; but, worn down with illness, and suffering under a painful disease, unable either to mount or to dismount a horse without assistance, they were not so great as they otherwise would, and perhaps ought, to have been. We were overpowered by numbers, but it is no more than justice to observe, that, though composed of so many different species of troops, the utmost harmony prevailed through the whole Army during the campaign.

At Fort Jefferson, I found the first regiment, which had returned from the service they had been sent upon, without either overtaking the deserters, or meeting the convoy of provisions. I am not certain, sir, whether I ought to consider the absence of this regiment from the field of ac-

tion as fortunate or otherwise. I incline to think it was fortunate; for I very much doubt whether, had it been in the action, the fortune of the day had been turned: and, if it had not, the triumph of the enemy would have been more complete, and the country would have been destitute of every means of defence.

Taking a view of the situation of our broken troops at Fort Jefferson, and that there were no provisions in the fort, I called on the field officers, viz: Lieutenant Colonel Darke, Major Hamtramck, Major Zeigler, and Major Gaither, together with the Adjutant General, for their advice what would be proper further to be done; and it was their unanimous opinion that the addition of the first regiment, unbroken as it was, did not put the Army on so respectable a footing as it was in the morning, because a great part of it was now unarmed; that it had been then found unequal to the enemy, and, should they come on, which was probable, would be found so again; that the troops could not be thrown into the fort, both because it was too small, and that there were no provisions in it; that provisions were known to be upon the road, at the distance of one, or, at most, two marches; that, therefore, it would be proper to move, without loss of time, to meet the provisions when the men might have the sooner an opportunity of some refreshment, and that a proper detachment might be sent back with it, to have it safely deposited in the fort. This advice was accepted, and the Army was put in motion again at ten o'clock, and marched all night, and the succeeding day met with a quantity of flour; part of it was distributed immediately, part taken back to supply the Army on the march to Fort Hamilton, and the remainder, about fifty horse-loads, sent forward to Fort Jefferson. The next day a drove of cattle was met with for the same place; and I have information that both got in. The wounded who had been left at that place were ordered to be brought here by the return of the horses.

I have said, sir, in a former part of this letter, that we were overpowered by numbers; of that, however, I have no evidence: but the weight of the fire, which was always a most deadly one, and generally delivered from the ground, few of the enemy showing themselves afoot, except when they were charged, and that, in a few minutes, our whole camp, which extended above three hundred and fifty yards in length, was entirely surrounded and attacked on all quarters.

The loss, sir, the public has sustained, by the fall of so many officers, particularly General Butler and Major Ferguson, cannot be too much regretted; but it is a circumstance that will alleviate the misfortune in some measure, that all of them fell most gallantly, doing their duty. I have had very particular obligations to many of them, as well as to the survivors; but to none more than to Colonel Sargent. He has discharged the various duties of his office with zeal, with exactness, and with intelligence; and, on all occasions, afforded me every assistance in his power, which I have also experienced from my Aid-de-camp, Lieu-

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tenant Denny, and the Viscount Malertie, who served with me in the station as a volunteer.

With every sentiment of respect and regard, I have the honor to be, sir, your most obedient servant,

ARTHUR ST. CLAIR.

The Hon. H. KNOX, *Secretary of War.*

P. S.—Some orders that had been given to Colonel Oldham over night, and which were of much consequence, were not executed, and some very material intelligence was communicated by Captain Slough to General Butler, in the course of the night before the action, which was never imparted to me, nor did I hear of it until after my arrival here.

*List of the killed and wounded officers in the battle of the 4th of November, 1791.*

## KILLED.

Major General Richard Butler; Colonel Oldham, Kentucky Militia; Majors Ferguson, Clarke, and Hart; Captains Bradford, Phelan, Kirkwood, Price, Van Swearingen, Tipton, Smith, Purdy, Piatt, Guthrie, Cribbs, and Newman; Lieutenants Spear, Warren, Boyd, MacMath, Burgess, Kelso, Read, Little, Happer, and Lickins; Ensigns Cobb, Balch, Chace, Turner, Wilson, Brooks, Beatty, and Purdy; Quartermasters Reynolds and Ward; Adjutant Anderson; Doctor Grasson.

## WOUNDED.

Lieutenant Colonels Gibson, Darke, and Sargent, adjutant general; Major Butler; Captains Doyle, Trueman, Ford, Buchanan, Darke, and Slough; Lieutenants Greaton, Davidson, De Butts, Price, Morgan, McCrae, Lysle, and Thompson; Adjutants Whistler and Crawford; Ensign Bines; the Viscount Malertie, volunteer aid-de-camp to Major General St. Clair.

## REDUCTION OF THE PUBLIC DEBT.

The SECRETARY OF THE TREASURY, in obedience to the order of the House of Representatives of the 19th instant, respectfully makes the following Report:

At the close of the year 1790 there was a considerable surplus of revenue beyond the objects of expenditure which had required a provision to that period; which surplus, by an act of the 12th of August in that year, was appropriated to the reduction of the Public Debt. The statement (A) herewith submitted will show, in one view, all the sums which, according to the establishments heretofore made, and corresponding appropriations, have required and will require to be defrayed, from the beginning of the year 1791 to the end of the year 1792, amounting together to \$7,082,197 74. The statement (B) will also show, in one view, the nett product of all the public revenues for the same period, according to the best calculation and estimate which can now be formed of it, amounting to \$7,029,755 26 cents. The statement (C) exhibits a summary of the total annual expenditure of the United States, in conformity to exist-

ing establishments, amounting to \$3,688,043 50. The statement (B) includes a view of the probable product, during the year 1792, of the existing revenues of the United States, amounting to \$3,700,000. From these statements will result substantially the information which is desired by the House of Representatives, as far as it is now in the power of the Secretary to give it. One or two matters, however, may be proper to be added, with a view to greater accuracy. There are certain instances in which the estimates for appropriations have exceeded, and will exceed, the sums actually expended. Hence the apparent excess of the expenditure, as exhibited in the statement, (A) beyond the product of the revenue, as shown in the statement, (B,) will probably not be found real. But the amount of these surplusses or over-estimate is not stated, because it is not, and, in some cases, cannot now be ascertained, and it is not likely to be very considerable; and because, if it should do more than counterbalance the excess alluded to, it will be safest to set off the surplus against those contingent demands which from time to time occur. No deduction has been made from the annual interest on account of the Debt purchased. This has proceeded from a supposition that it will be deemed expedient by the Legislature to appropriate inviolably the interest of any part of the Debt which shall be at any time extinguished towards the extinction of the remainder. This point will be more particularly submitted in a Report on the subject of the Public Debt. All which is humbly submitted.

ALEXANDER HAMILTON,

*Secretary of the Treasury.*

TREASURY DEPARTMENT, *January 23, 1792.*

## A.

*Statement of expenditures made and to be made pursuant to appropriations heretofore made in conformity to the existing establishments of the United States, from the beginning of the year 1791 to the end of the year 1792, viz:*

Amount of moneys appropriated by an act of the 11th February, 1791, making appropriations for the support of Government during the year 1791, and for other purposes	\$740,232 60
Sum appropriated by an act of the 3d of March, 1791, towards effecting a recognition of the treaty with the Emperor of Morocco	20,000 00
Sum appropriated by an act of the same date for raising another regiment, and making a further provision for the protection of the frontiers	312,686 20
Amount of moneys appropriated by an act of the 23d of December last past, making provision, among other things, for the support of Government for the year 1792	1,059,222 81
Sum to be advanced pursuant to the act making provision for defraying the intercourse between the United States and foreign nations	40,000 00
	2,172,141 61



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real inconvenience is likely permanently to result from the extension of that rate to the cases proposed. The addition of two and a half per cent. to the duty on the mass of articles now rated at five will constitute an important, though not an excessive augmentation. Nevertheless, it is proposed that it shall be only temporary; and there is reasonable ground of expectation that the cause for having recourse to it will not be of very long continuance. It will not have escaped the observation of the House that the duties which were suggested in the Secretary's report on that subject, as encouragements to manufactures, are for the most part included among the objects of this report. It may tend to avoid future embarrassment if such abolitions and drawbacks as shall be deemed expedient, with a view to promoting manufactures, shall accompany the establishment and appropriation of whatever further duties may be laid for the object in contemplation. And it may be found convenient to qualify the appropriation of the surplus which is to be applied to that object, so as to let in such other appropriations during the session as occurrences may suggest. An estimate of the additional revenue which may be expected from the proposed duties is subjoined. It will occur to the House that the credit allowed for the duties will require an anticipation of their product by a temporary loan, for which provision in the law will be requisite. All which is humbly submitted.

ALEXANDER HAMILTON,  
*Secretary of the Treasury.*

*Estimate of probable additional revenue from the proposed duties.*

Madeira wine, 300,000 gallons, average increase 12 cents per gallon	-	\$36,000
Other wines, 700,000 gallons, average increase 3 cents per gallon	-	21,000
Distilled spirits, 3,600,000 gallons, average increase, allowing for proposed deduction from the duties on domestic spirits, 2 cents	-	72,000
Salt, from the equalizing regulation proposed, will probably yield one-sixth more, or 2 cts. per bushel, on 2,000,000 bushels	-	40,000
Malt liquors, 200,000 gallons, at 2 1-2 cts.	-	5,000
Nails and spikes, 1,800,000 lbs., at 1 cent	-	18,000
Cocoa, 800,000 lbs., at 1 cent	-	8,000
Playing cards, 20,000, at 15 cents	-	3,000
Other enumerated articles ad valorem, at 15 per cent.	-	10,000
Increased duty on articles rated permanently at 10 per cent. ad valorem, computed at \$2,000,000 in value, at 3 per cent.	-	60,000
Temporary addition of 2 1-2 per cent. on the articles now rated at 5, computed on \$10,000,000	-	250,000
		<u>523,000</u>

## DEFEAT OF GENERAL ST. CLAIR.

Mr. FITZSIMONS, from the committee appointed to inquire into the causes of the failure of the late expedition under Major General St. Clair, reported that the committee had proceeded to examine all the papers furnished by the Executive Department relative thereto, sundry papers and accounts furnished by the Treasury and War Departments, with explanations of the same by the Heads of those Departments in person, to hear the testimony of witnesses upon oath, and written remarks by General St. Clair, upon the facts established by the whole evidence; and that, as the result of their inquiries, the committee had agreed to the following Report:

The contract for the supplies of the Army on the route from Fort Pitt, was made by Theodosius Fowler, with the Secretary of the Treasury, and bears date the 28th day of October, 1790; that, at the same time, a bond, in the penalty of one hundred thousand dollars, with Walter Livingston and John Cochran securities thereto, was entered into for the due execution of the contract; that on the 3d day of January, 1791, the contract was wholly transferred from the said Fowler to William Duer, a copy of which transfer was lodged in the office of the Secretary of the Treasury; that, by Letter from the Secretary of War, bearing date the 25th of February, 1791, addressed to William Duer, it appears that he was considered as the contractor; that no correspondence appears to have taken place subsequently to that time between Theodosius Fowler and either the Treasury or War Departments; that on the 6th day of March, 1791, a contract was entered into by William Duer with the Secretary of War for supplying the troops with provisions until their arrival at Fort Pitt; and at Fort Pitt a bond was at the same time entered into by the said William Duer for the due execution of the said contract, in the penalty of four thousand dollars, without any security whatsoever; that the act making provision for the defence of the frontiers received the signature of the President of the United States the 3d of March, 1791; that General St. Clair was appointed Commander-in-Chief of the Army destined for the expedition on the 4th day of the same month, and on the 28th left Philadelphia, for Fort Pitt, at which place he arrived the 16th day of April, and from thence proceeded to Lexington, and from thence to Fort Washington, where he arrived on the 15th day of May.

At the time of the arrival of the General at Fort Washington, the garrison there consisted of 75 non-commissioned officers and privates fit for duty; the garrison at Fort Harmar, of 45; at Fort Steuben, of 61; at Fort Knox, of 83; and on the 15th day of July, the whole of the first United States regiment, amounting to 299 non-commissioned officers and privates, arrived at Fort Washington, under orders from the Commander-in-Chief. General Butler was appointed the second in command in the month of March, and immedi-



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ately proceeded to make the necessary arrangements for the recruiting service; that he arrived in Baltimore, in the State of Maryland, the 20th of April, and continued there till the 30th of the same month; that he arrived at Carlisle, in the State of Pennsylvania, on the 9th of May, and at Fort Pitt on the 22d of the same month. It appears that no moneys for purchasing supplies were furnished at Carlisle, which was the place of rendezvous for the enlisted soldiery, on the 9th of May; and that Mr. Smith, agent for the contractor, was actively engaged in furnishing supplies for the troops, on credit.

It appears, by letters from John Kean, another of the contractor's agents, that no moneys had been received by him on the 8th of May; and it appears that on the 23d of March, there was advanced to William Duer, upon the last-mentioned contract, from the Treasury, the sum of fifteen thousand dollars; that there was advanced upon the first-mentioned contract, the sum of seventy thousand dollars, in the following sums, and at the following dates, to wit: March 22, ten thousand dollars; April 7, fifteen thousand dollars; April 25, fifteen thousand dollars; May 7, twenty thousand dollars; July 20, ten thousand dollars.

It appears from the correspondence of General Butler to the Secretary of War, from the 9th of May to the 9th of June, repeated complaints were made of fatal mismanagements and neglects in the Quartermaster's and Military Stores Department, particularly as to tents, knapsacks, camp-kettles, cartridge boxes, pack-saddles, &c., all of which articles were deficient in quantity, and bad in quality; the pack-saddles, particularly, were made in Philadelphia, which, with the transportation, amounted to more than double the price at which they might have been procured at Fort Pitt, and were found, upon examination, to be unfit for use; the arms sent forward appear not to have been duly examined, and arrived at Fort Pitt extremely out of order, and many totally unfit for use: which circumstances rendered repairs absolutely necessary, and added to the delay of the troops at Fort Pitt.

It appears that a great proportion of the powder supplied for the use of the Army, was not of good quality, though an experiment was made by Major Ferguson, at Fort Pitt, with a howitz, who reported in favor of the quality of the powder. On the 9th of June, General Neville, another of the contractor's agents, informed General Butler that he had not at that time received any moneys from the contractors for the purchase of provisions, &c. for the troops, and was obliged to supply them on credit; that the country furnished provisions in abundance at a cheap rate when money was had for the purchase; that shortly after this information was communicated to General Butler, at his request four hundred dollars were advanced to General Neville by the Quartermaster, for the purchase of provisions for the troops.

The troops arrived at Fort Pitt in the following order, to wit: May 16, Captain Slough, 69 men; May 18, Captain Powers, 78 men; May 19, Captain Cribbs, 40 men; same day, Captain Guth-

rie, 23 men; May 25, Captain Armstrong, 76 men; same day, Captain Kirkwood, 67 men; May 28, Captain Snowden, 101 men; June 2, Captain Sparks, 83 men; June 3, Captain Butler, 61 men; same day, Captain Brock, 82 men; same day, Captain Van Swearingen, 88 men; June 5, Captain Pike, 73 men; total, including officers and privates, 842 men: and left that place in the following order: Major Ferguson, with Captain Armstrong's company, about the 1st of June; Captain Snowden, with the troops under his command, on the — day of —; Major Gaither, with about 500 men, 12th of July; and on the 22d of August, the last of the troops, under the command of Captain Phelon, and General Butler, with the Quartermaster General, on the 26th of August.

It appears that General Butler had orders from the Department of War to protect the frontiers with the troops under his command; and that the delays in sending forward the troops from Fort Pitt, arose partly from that circumstance, and partly from the temporary want of supplies of provisions and other necessaries, and from the want of the necessary boats for their transportation, which were not in readiness as soon as the troops were. It appears that General Butler acted with ability, activity, and zeal, in his command at Fort Pitt, and that the delays of the troops there cannot be imputed to his want of judgment or his want of exertion. The troops met with considerable difficulties and delays in going down the river, from the low state of the water, and arrived at Fort Washington in the following order: Captain Munford, from North Carolina, with about 50 men, on the — day of —; Major Ferguson, with Captain Armstrong's company, on the — day of —; Major Gaither, with the troops under his command, on the — day of —; Colonel Darke, with the troops under his command, on the — day of —; and the Kentucky militia, on the — day of —.

The Army, consisting of about 2,000 non-commissioned officers and privates, moved from Fort Washington, by orders from the Commander-in-Chief, to a place about five or six miles from thence, called Ludlow's Station, where they continued till the 17th day of September; at which time, the whole Army amounted to about 2,300 non-commissioned officers and privates fit for duty; that the price of rations at Fort Washington, agreeably to contract, was 6 $\frac{2}{3}$ -90ths of a dollar per ration; the price of rations at Ludlow's Station was 15 $\frac{1}{3}$ -90ths of a dollar per ration; that the inducements of the Commander-in-Chief to this movement appear to have been, to furnish green forage for the horses and beef cattle for the Army, to instruct the soldiery in field exercise and other necessary discipline, and to deprive them of the means of intoxication, which were very plentifully supplied at Fort Washington, and used to an excessive degree by the soldiery, to correct the excessive use of which the most rigid attention to discipline was found incompetent.

Mr. Hodgdon was appointed Quartermaster General in the month of March, and continued at Philadelphia until the 4th of June; he then pro-

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ceeded to Fort Pitt, where he arrived the 10th of the same month. No sufficient causes have appeared to the committee to justify this delay, and his presence with the Army appears to have been essentially necessary previously to that time; the duties of the Commander-in-Chief were much increased in consequence of the absence of the Quartermaster General, and after a continued expectation of his arrival at Fort Washington, for more than six weeks, the Commander-in-Chief gave him express orders, by letter, to repair to camp without delay. The receipt of the letter is acknowledged, but the orders contained therein were neither answered nor obeyed, and his arrival at camp was not until the tenth of September. The Commander-in-Chief, until that time, in addition to the duties of his office, discharged those of the Quartermaster General: and the military stores furnished by that Department were so deficient, from mismanagement and neglect, that many things essential to the movements of the Army, were either wholly made or repaired at Fort Washington, and even the tools for the artificers to work with, the Quartermaster particularly informed the Commander-in-Chief, that two complete traveling forges were sent forward, and upon examination, both of them were found to be without an anvil. Many other things, equally necessary, were either wholly omitted, or unfit for their intended use.

There were six hundred and seventy-five stand of arms at Fort Washington, the first of June, and most of them totally out of repair. The Commander-in-Chief appears to have been correct and attentive in all his communications with the Secretary of War, and to have discharged the various duties which devolved upon him with ability, activity, and zeal.

The Army moved from Ludlow's Station, on the seventeenth day of September, and arrived at the place where Fort Hamilton is now erected on the — day of —; they employed about fifteen days building that fort, and then proceeded on their march to the place where Fort Jefferson is now erected, forty-four miles distant from Fort Hamilton, where they arrived on the — day of October, and commenced their march from that place on the twenty-fourth of the same month; that the Army at this time consisted of — non-commissioned officers and privates fit for duty. At this time the Army had not more than three days supply of flour, and were sometimes at one-fourth, and sometimes at one-half allowance of that article, the deficiencies of which allowance were made up by increasing the quantity of beef, with which they were plentifully supplied. The Army was delayed five or six days on the march from Fort Jefferson for the want of provisions, and the season was so far advanced that sufficient green forage for the horses, could not be procured, from which circumstance many of the horses were totally lost, and others rendered unfit for service.

The orders to the Commander-in-Chief to proceed with the expedition, were express and unequivocal, so much so, as in the opinion of the Committee, to preclude the Commander-in-Chief from exercising any discretion relatively to that object

On the 31st of October, about sixty of the Kentucky militia deserted in a body, the first regiment consisting of about three hundred effective men was detached with a view to cover a convoy of provisions which was expected, and which it was supposed was in danger from the deserted militia and to prevent further desertions. On the 3d of November, after detaching the first regiment, the Army consisted of about fourteen hundred effective men, and on the morning of the 4th, about half an hour after sunrise, a general attack was commenced and in a few minutes thereafter nearly the whole Army was surrounded by the enemy; the action continued about four hours during which several charges were made by part of the Army, which caused the enemy to give way, but produced no good effect; the attack was unexpected, the troops having been just dismissed from the morning parade; it commenced upon the militia who were in advance of the main Army, and who fled through the main Army, without firing a gun: this circumstance threw the troops into some disorder, which, it appears, they never completely recovered during the action; the fire of the Army was constant, but not well directed; and it appears that a part of the troops behaved as well as could be expected from their state of discipline, and the manner and suddenness of the attack. The Commander-in-Chief appears to have been cool and deliberate in the whole of the action, and the officers in general active and intrepid. The whole order of march, as far as the Committee are capable of expressing an opinion, appears to have been judicious, and the ground for action well chosen. The retreat was disorderly in the extreme; after it commenced, no orders were obeyed, if any were given, the men having lost all regard to discipline, or control; all the precaution appears to have been taken for the safety and comfort of the wounded, which the circumstances of the case would admit of.

The Committee have had no competent evidence before them to ascertain the number of the enemy in action; there were various conjectures as to the number, from different persons, from five hundred the lowest to one thousand or twelve hundred the highest.

Mr. Barton, a witness examined by the Committee, conversed with a chief at Niagara who was in the action, and was by him informed that the number of the enemy in action was one thousand and forty, and that six hundred more had convened, but were engaged in hunting, at the time of the action. He was also informed that the enemy had not collected in any considerable numbers until a few days before the action; this information appears to be corroborated by some other circumstances sufficient to induce a belief of the fact in the Committee.

The contractor for supplies, agreeably to the terms of contract, was to furnish horses, &c., for the transportation of the supplies; in this condition of the contract there was a total failure, which compelled the Commander-in-Chief to direct between six and seven hundred horses to be purchased by Israel Ludlow, one of the contractor's



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agents; to draw bills on Mr. Duer, the acting contractor, for payment, which bills endorsed by the Commander-in-Chief, to the amount of about seventeen thousand dollars, were protested by the contractor and paid at the Treasury. The persons employed by the agents of the contractor to drive the horses, appear to have been totally unacquainted with that business, and from the want of bells, hobbles, and other necessaries of that kind, as well as from other gross mismanagement, many of the horses were lost, and others rendered unfit for service; from which causes there were not pack-horses sufficient to transport the necessary quantity of flour from Fort Washington, for the use of the Army on their march; this circumstance retarded the execution of the expedition.

The officers, agreeably to the terms of contract, had an election of drawing the whole of the rations to which their rank entitled them, or of receiving the contract price of them in cash; the contractor's agents not being furnished with money for this purpose, gave rise to a general order by which the officers were directed to receive a certificate from the contractor's agent, called a due bill, of one of which bills the following is a copy:

"Due Major H. Gaither one hundred and seventy-three complete rations, on the route to Miami village, as appears from Mr. Wilson's certificate.

MATT. EARNEST,  
for WIL. DUER.

"FORT WASHINGTON, November 27, 1790."

This due bill issued upon the officer's signing some acknowledgment of satisfaction for his whole retained rations, which acknowledgment of satisfaction forms a voucher for settlement to the contractor, with the Treasury Department; and the officer is refused payment for these due-bills at the Pay Office. All casualties, by which these evidences of debt become lost or destroyed, are the gain of the contractor and the loss of the officer.

It is suggested by the Secretary of the Treasury, though not with positive certainty that a sufficient sum will be found due from the Treasury to the contractors upon a final settlement, to cover all these debts to the officers; the general order, which had the operation before stated, continued in force about five or six weeks, and was abolished about the 19th of October. The privates of the levies received but three dollars pay each, from the time of their respective enlistments to the time of their respective discharges, and were actually discharged without further pay or settlement; notes of discharge were given them, specifying the time of their service and bearing endorsements that some advancements had been made to them in account, without stating the amount, the object of which is suggested to have been to prevent transfers; the intended effect was not produced by the measure; the notes were sold for trifling considerations; the real sums due on the notes were various, from ten to twenty-five dollars, and they were frequently sold for five dollars, or one gallon of whiskey; the moneys for the pay of the levies, did not leave Philadelphia till 4th December, nor arrive at Fort Washington till 3d of January, 1792. Some time after the last enlisted levies were known to be en-

titled to their discharges; two reasons were assigned by the Secretary of War for this delay of payment, the one because there was no regular Paymaster in the Army, and the difficulties of transmitting moneys to the Army at so great a distance, in consequence of the want of such an officer; the other because it was supposed the Army would be at that time at the Miami village, so far advanced in the wilderness as not to admit of the practicability of discharging the levies, the total defeat of the Army not having been previously counted upon.

The clothing for the levies appears to have been of a very inferior quality, particularly coats, hats, and shoes, the last of which, in many cases, lasted not more than four days, and better clothing was furnished upon their enlisting into the regular service, which was for a time countenanced by the Commander-in-Chief.

Various modes appear to have been pursued by the officers in enlisting the levies, which occasion great uneasiness and some confusion; a considerable part of the Virginia battalion was so enlisted that the terms of their enlistments appear to have expired the first of November; the orders to the recruiting officers appear not to have been sufficiently explicit upon this point, whether the terms of enlistment were to commence at the time of enlistment, or at the arrival at a place of rendezvous. The militia were principally substitutes, and totally ungovernable, and regardless of military duty or subordination. It appears that the Commander-in-Chief had it in contemplation to commence the expedition at least one month earlier than it was commenced, with the few he then had, which was not very different from the real force in action; but was prevented for the want of the Quartermaster and contractor, and in consequence of the extreme deficiencies and derangement of the business of their Departments, the person sent forward by the Quartermaster being totally incompetent to the business; and the contractor's agents not being sufficiently supplied with money to enable them to execute their duties.

It appears to the Committee that in the wilderness where vegetables are not to be had, and the duties of the soldier uncommonly hard, the rations allowed by law, if completely supplied, are insufficient. This circumstance, with others, produced discontent and desertion among the soldiers.

It appears to the Committee that there were appropriated for the use of the War Department, for the year 1791, the sum of \$652,761 61, and that there have been advanced by the Treasury to the War Department, upon that appropriation, \$575,906 57, to wit:

February, 1791, advanced	-	-	-	\$15,000 00
March, do do	-	-	-	46,002 20
April, do do	-	-	-	100,106 20
May, do do	-	-	-	80,109 80
June, do do	-	-	-	55,387 44
July, do do	-	-	-	14,105 39
August, do do	-	-	-	14,554 59
September, do do	-	-	-	14,796 53
October, do do	-	-	-	184 81
November, do do	-	-	-	107 28



*Court of Inquiry on General Harmar.*

January, 1792,	do	-	-	33,753	00	
February, do	do	-	-	43,562	61	
March, do	do	-	-	1,741	16	
Amounting to				-	419,311	10
To which add moneys borrowed from the Bank of North America, on loan, without interest,				-	156,595	56
					<u>575,906</u>	<u>57</u>

And that the Treasury has always been in readiness to make the requisite advances, upon the request of the Secretary of War. It does not appear to the Committee in what manner and to what amount these advancements have been disbursed, the accounts not having been yet settled at the Treasury; nor was it possible, from the nature of the case, that they could at this time have received any conclusive or satisfactory information on that point.

From the foregoing state of facts, the Committee suggest the following as the principal causes, in their opinion, of the failure of the late expedition under Major General St. Clair.

The delay in furnishing the materials for, and in passing the act for the protection of the frontiers, the time after the passing of which was hardly sufficient to complete and discipline an Army for such an expedition, during the summer months of the same year.

The delays consequent upon the gross and various mismanagements and neglects in the Quartermaster's and Contractor's Departments, the lateness of the season at which the expedition was undertaken, the green forage having been previously destroyed by the frost, so that a sufficiency of subsistence for the horses necessary for the Army could not be procured.

The want of discipline and experience in the troops.

The Committee conceive it but justice to the Commander-in-Chief, to say, that in their opinion, the failure of the late expedition can in no respect be imputed to his conduct, either at any time before or during the action; but that as his conduct in all the preparatory arrangements, was marked with peculiar ability and zeal, so his conduct during the action furnished strong testimonies of his coolness and intrepidity.

The Committee suggest, as reasons for leaving the numbers of the troops at particular periods, and the dates of some facts, blank, the want of sufficient time to complete the Report with minuteness, and in some instances the want of the necessary evidence.

The said Report being read,

*Resolved,* That this House will, early in the next session, proceed to take the same into consideration.

#### COURT OF INQUIRY ON GEN. HARMAR.

Proceedings of a Court of Inquiry, held at the special request of Brigadier General JOSIAH HARMAR, to investigate his conduct as Commanding Officer of the

Expedition against the Miami Indians, 1790, the same having been transmitted by Major General St. CLAIR to the Secretary of the United States for the Department of War.

FORT WASHINGTON, *September 24, 1791.*

SIR: I have the honor to enclose to your Excellency the Proceedings of the Court of Inquiry which sat, agreeably to the General Order of the 14th instant, "to inquire into the personal conduct of Brigadier General HARMAR, Commanding Officer on the late expedition against the Miami Indians."

The Court have taken the utmost pains to investigate the subjects committed to them, and have expected that some persons would have attended from Kentucky on the occasion, as mentioned in your Excellency's Letter of the 15th. Finding no personal evidence come forward from that quarter, this day closed their proceedings, and present to your Excellency their opinion, as specially directed.

There are some depositions handed in, but as they are not authenticated under the seal of any Court of Record, or by the Prothonotary of any county, the Court conceive they can only subjoin them to the proceedings for information to your Excellency, as they have been to the Court. They are numbered 1, 2, 3, and 4.

I have the honor to be, with great respect, your Excellency's most obedient servant,

RICHARD BUTLER,  
Major General, *President.*

His Excellency Maj. Gen. ARTHUR ST. CLAIR.

*Proceedings of a Court of Inquiry held at Fort Washington, September 15, 1791, agreeably to the Order of the 14th instant, of which the following is a copy:*

"A Court of Inquiry, of which Major General BUTLER is appointed President, and Lieutenant Colonels GIBSON and DARKE members, will sit to-morrow at 12 o'clock, at the southeast block-house, Fort Washington."

Major General RICHARD BUTLER, *President.*

Lieutenant Colonels GEORGE GIBSON, and WILLIAM DARKE, *Members.*

*After Orders.*

HEADQUARTERS, *September 14.*

Lieutenant WARREN, of the Second United States Regiment, is appointed to record the proceedings of the Court of Inquiry directed to sit at Fort Washington by the orders of this day.

W. SARGENT, *Adjutant General.*

The Court met, agreeably to the above order, and were duly sworn according to law.

The following Letter was read from his Excellency Major General St. Clair, directed to Major General Butler, President of the Court of Inquiry:

FORT WASHINGTON, *September 15, 1791.*

SIR: The Court of which you are appointed President is ordered for the purpose of inquiring

*Defeat of General St. Clair.*

## WAYS AND MEANS.

Nett product of duties on imports and tonnage for the year 1791, as ascertained	-	\$3,403,195	18
Do do do for the year 1792, as estimated (a)	-	3,900,000	00
Do do do for the year 1793 (b)	-	4,000,000	00
Do of duties on home made spirits for one half-year of 1791 (c)	-	150,000	00
Do do do for 1792 (c)	-	400,000	00
Do do do for 1793 (c)	-	400,000	00
Surplus which will probably remain unexpended of the sums appropriated for the War Department for 1792 (d)	-	140,000	00
Total ways and means	-	12,393,195	18

## NOTES.

(a) This sum is estimated by adding to the ascertained product of the year 1791 an ascertained excess of the product of the first two quarters of the year 1792, beyond the product of the first two quarters of the year 1791, being \$252,319 11, and the estimated product for a half year of the additional duties on imports laid during the last session of Congress, and commencing on the 1st of July last, being \$261,750. According to the information hitherto received at the Treasury, there is every probability that the amount of the duties for the last half-year of 1792 will fully equal this calculation of their product, if the ratio of the first half-year will exceed it.

(b) This estimate proceeds on the basis of the product of 1792, making a compromise of two considerations—one, an increase which may be expected equal to the difference between a whole and a half-year's product of the additional duties above mentioned; the other, a decrease which may arise from a defalcation of the duties on foreign spirits, in consequence of the increase of domestic distillation. There is good ground to conclude that the sum stated will rather fall short of than exceed the actual product.

(c) This branch of the revenue is not yet in complete order, but enough is ascertained, by actual returns, to afford a moral certainty that the product cannot be materially less than is here stated.

(d) This surplus is thus deduced:

The total appropriation for the War Department for the year 1792 is	-	\$1,081,146	68
The total expenditure to the 27th of October was	-	\$690,796	00
The sum at that time, estimated by the Secretary of War to be further necessary to the end of the year, exclusive of provision supplies, is	-	218,950	00
For provisions and contingencies may be stated a further sum of	-	30,000	00
		939,746	00
Balance which will probably remain unexpended	-	141,400	68

Some inconsiderable appropriations for particular purposes are unnoticed, because certain casual funds will probably nearly, if not altogether, balance them.

TREASURY DEPARTMENT, November 14, 1792.

ALEXANDER HAMILTON.

[Statements E and F, "showing the application, in detail, of the sums of \$50,000 and of \$5,000, respectively, granted by an act making certain appropriations therein mentioned, passed the 12th August, 1790, for the purpose of discharging such demands on the United States, not otherwise provided for, as shall have been ascertained and admitted in due course of settlement at the Treasury, and which are of a nature, according to the usage thereof, to require payment in specie," not being deemed important, are here omitted.]

## GENERAL ST. CLAIR'S DEFEAT.

HOUSE OF REPRESENTATIVES, February 15, 1793.

Mr. GILES, from the committee, to whom was recommended the Report of the committee appointed to inquire into the causes of the failure of the expedition under Major General St. Clair, together with the documents relating thereto, including the Letter from the Secretary of War and the memorial of Samuel Hodgdon, have proceeded to re-examine the documents formerly before them, as far as seemed necessary; to hear and examine other testimony, produced to them; to hear and consider the written communications, made by the Secretary of War, Samuel

Hodgdon, and the Commander-in-chief of the expedition; and, as the result of their farther inquiries, make the following supplementary Report:

The original report commences in the following words:

"The contract for the supplies of the Army on the route from Fort Pitt was made by Theodosius Fowler with the Secretary of the Treasury, and bears date the twenty-eighth day of October, one thousand seven hundred and ninety; that at the same time a bond in the penalty of one hundred thousand dollars, with Walter Livingston and John Cochran, securities thereto, was entered into for the due execution of the contract; that, on the third day of January, one thousand seven



*Defeat of General St. Clair.*

hundred and ninety-one, the contract was wholly transferred from the said Fowler to William Duer, a copy of which transfer was lodged in the office of the Secretary of the Treasury; that by letter from the Secretary of War, bearing date the twenty-fifth day of February, one thousand seven hundred and ninety-one, addressed to William Duer, it appears that he was considered as contractor; that no correspondence appears to have taken place subsequently to that time between Theodosius Fowler and either the Treasury or War Departments."

From documents received by the Committee, since their last appointment, it appears that the copy of the before mentioned transfer was not lodged in the office of the Secretary of the Treasury until the seventh of April, one thousand seven hundred and ninety-one; at which time it was received by the Secretary of the Treasury, under cover of a letter from William Duer, informing him of the circumstance of the said transfer, and making requisitions for certain advances of money. That the Secretary of the Treasury, by letter in reply of the same date, agrees to make the advances required to William Duer, as the agent of Theodosius Fowler.

It appears that all the warrants issued from the Treasury, for the purposes of this contract, were issued to William Duer, as the agent of Theodosius Fowler.

The Secretary of the Treasury has furnished the Committee with the written opinions of the Attorney General of the United States, and several other lawyers of eminence, all of whom concur in opinion, that the securities to the bond, originally given by Theodosius Fowler, for the execution of this contract, are now responsible for all damages, consequent upon any breach of that contract.

The Secretary of War, who alone appears to have been the agent on the part of the United States, in all things relating to the execution of the contract, has always corresponded with William Duer, as the contractor, and his correspondence commences at a date prior to that of the copy of the contract lodged at the Treasury.

The original report proceeds—

"That, on the sixth of March, one thousand seven hundred and ninety-one, a contract was entered into by William Duer with the Secretary of War, for supplying the troops with provisions, until their arrival at Fort Pitt, and at Fort Pitt. A bond was, at the same time, entered into, by the said William Duer, for the due execution of the said contract, in the penalty of four thousand dollars, without any security whatsoever."

It appears, by a re-examination of the documents formerly before the Committee, that the date and terms of the last mentioned contract were misrepresented; the date being the twenty-sixth, instead of the sixth of April, and the terms of the contract being to furnish provisions for the troops until their arrival at Fort Pitt, but not during their continuance at that place. The first of these mistakes appears to have been merely casual; the second appears to have arisen from paying greater attention to the manner in which the contract was

really executed, than to the terms of the contract itself; it having been conceived by the Committee that Colonel Neville, the agent for supplying the troops during their continuance at Fort Pitt, acted under the last mentioned contract. This circumstance is rendered the less material, from the consideration, that according to the plan of campaign, no delay of the troops at Fort Pitt was counted upon. The statement is otherwise correct.

The Secretary of War, in his communication, states that it was not the custom of the office to require other security than that of the contractor, for the due execution of contracts of small amount; and it appears by a letter of the Secretary of the Treasury, written since the former report, that the Secretary of War consulted with him upon the occasion alluded to, and that he agreed in opinion, that further security was not necessary.

It is stated in the original report, after speaking of one of the contractor's agents, that—

"It appears by letters from John Kean, another of the contractor's agents, that no moneys had been received by him on the eighth of May, and it appears that on the twenty-third of March there was advanced to William Duer, on the last mentioned contract, the sum of fifteen thousand dollars."

Upon re-examining the letters of John Kean, it appears that he had received the sum of four hundred and fifty dollars, and no more, before the aforesaid eighth day of May, which was before overlooked by the Committee. And it appears from documents received by the Committee since their report, that the sum of fifteen thousand dollars was not advanced to William Duer on account of the last mentioned contract, on the twenty-third of March. The Committee were led into this mistake by a document received from the Treasurer, representing the fact as stated in the original report; which document is still before the Committee. The true state of this transaction as recently stated, appears to be as follows:

A warrant issued in favor of Joseph Howell, on the twenty-third of March, for the sum of fifteen thousand dollars, for the use of the War Department generally, and not for William Duer, as stated in the account rendered by the Treasurer; of which sum, were advanced to William Duer, on the twenty-sixth of March, four thousand dollars; on the eighth day of May following, were paid to James Smith, contracting agent for William Duer, one thousand dollars; and between the twenty-first of May and the twenty-third of July, were paid to John Kean, another agent for William Duer, four hundred and thirty-seven dollars and ninety-one cents—making the whole sum advanced on the last mentioned contract, five thousand four hundred and thirty-seven dollars and ninety-one cents. The residue of the fifteen thousand dollars is suggested to have been applied to the use of the War Department generally.

The original report states that—

"It appears from the correspondence of General Butler, from the ninth of May to the ninth of June, repeated complaints were made of fatal mismanagements and



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neglects in the Quartermaster's and Military Stores departments, particularly as to tents, knapsacks, camp kettles, cartridge boxes, pack-saddles, &c., all of which articles were deficient in quantity and bad in quality. The pack-saddles, particularly, were made in Philadelphia, which, with the transportation, amounted to more than double the price at which they might have been procured at Fort Pitt, and were found, upon examination, to be unfit for use."

Mr. Hodgdon has produced to the Committee a number of *ex-parte* affidavits and certificates to prove that these several articles were furnished in sufficient quantities, and of good quality. Most of these affidavits, however, were made by the manufacturers of the respective articles, or persons in the employment of Mr. Hodgdon, and generally written in a different handwriting from that of the subscribing deponents, and most of the certificates by persons unknown to the Committee. But the testimony formerly taken by the Committee, and the corroboration of it by the evidence of respectable and disinterested persons, lately taken by the Committee, in presence of Mr. Hodgdon, appears abundantly sufficient to justify the statement of facts contained in the original report. With respect to the pack-saddles, however, it is necessary to remark, that some qualification of the expression used in the original report would be proper. They appear to have been made of different sizes; those of the largest size are proved to have been wholly unfit for use, the horses used for pack-horses being generally small. Some of the smaller pack-saddles, however, appear to have been used in the campaign, and to have answered the intended purpose better than was at first expected.

It is stated in the original report that—

"The arms sent forward appear not to have been duly examined, and arrived at Fort Pitt extremely out of order, and many totally unfit for use, which circumstance rendered repairs absolutely necessary, and added to the delay of the troops at Fort Pitt."

The Committee are led to conclude, from authentic information recently received, that the complaint of the arms intended for the regular troops and levies, is unfounded; some of the arms appear to have been damaged, after they were put into the hands of the troops, from their inexperience or carelessness, though delivered to them in good order.

The Committee were induced to make the unqualified statement contained in the original report, from the unqualified manner in which this subject is spoken of by some of the witnesses, formerly examined by the Committee; they not having stated with sufficient precision the causes of the arms being out of repair, nor specifying the probable number requiring repairs.

The original report proceeds with the following expression:

"It appears that a great proportion of the powder, supplied for the use of the Army, was not of good quality, though an experiment was made by Major Ferguson, at Fort Pitt, with a howitzer, who reported in favor of the quality of the powder."

The Committee are satisfied from experiments made since the original report by Captain Ford, at Fort Washington, upon request of the Secretary of War, and by samples of the powder from thence, actually furnished the Committee, that the powder was originally of good quality; but that a certain quantity of it was damaged by exposure to the air and moisture after being issued to the troops. And it appears to have been powder of this description, upon which experiments were made by some of the officers in the expedition, which produced unfavorable impressions as to the quality of the powder in general; for it is certain, a belief was currently entertained amongst the officers, that the powder in general was not of good quality. The insufficiency of the powder, after the Army took the field, is accounted for from the bad quality of the tents. It is in testimony to the Committee, that great quantities of the fixed ammunition were actually rendered useless from that cause.

It is stated in the original report that—

"Mr. Hodgdon was appointed Quartermaster General in the month of March, and continued at Philadelphia until the fourth of June, he then proceeded to Fort Pitt, where he arrived on the tenth of the same month; no sufficient causes have appeared to the Committee to justify this delay, and his presence with the Army appeared to have been essentially necessary previously to that time."

In this statement, the duration of Mr. Hodgdon's stay at Fort Pitt was casually omitted, which appears to have been from the tenth of June, till the twenty-sixth of August. The insertion of this fact will sufficiently explain the sense of the Committee in the inference respecting the time in which the presence of the Quartermaster General was necessary at the Army.

It is stated in the original report that—

"There were six hundred and seventy-five stand of arms at Fort Washington, on the first of June, and most of those totally out of repair."

These arms, the precise number of which appears not to be accurately ascertained, are admitted by the Secretary of War to have been at Fort Washington in the situation described, but he suggests that they were old and useless arms, which had been collected at that place, and were not counted upon as any part of the supply of arms for the expedition. It appears that the regular troops and levies were completely supplied with arms, without recurrence to this stock; but a number of them was repaired, by orders of the Commander-in-chief of the expedition, with a view, as he suggests, to arm the militia from Kentucky, who, it was expected, would arrive, either insufficiently armed, or not armed at all; and he did not conceive the arrangements, made by the War Department, competent to arming the militia, together with the other troops.

The original report states that—

"The privates of the levies received but three dollars pay each, from the time of their respective enlistments to the time of their respective discharges, and were actually discharged without farther pay or settle-

*Defeat of General St. Clair.*

ment; notes of discharge were given them, specifying the time of their service, and bearing endorsements, that some advances had been made to them on account, without stating the amount, the object of which is suggested to have been to prevent transfers; the intended effect was not produced by the measure; the notes were sold for trifling considerations; the real sums due on the notes were various—from ten to twenty-five dollars, and they were frequently sold for one dollar, or one gallon of whiskey. The moneys for the pay of the levies did not leave Philadelphia till the fourth of December, one thousand seven hundred and ninety-one, nor arrive at Fort Washington, till the third of January, one thousand seven hundred and ninety-two, some time after the last enlisted levies are known to have been entitled to their discharges."

In addition to the reasons contained in the original report, respecting the discharging of the levies, without their stipulated pay, which are admitted by the Secretary of War to have been justly stated, he has, in his late communication, suggested to the Committee, that, at the time of the discharge of the levies there was actually, in the hands of the Quartermaster General, the sum of sixteen thousand two hundred and ninety-two dollars and seventy cents, which were subject to be applied to any object, agreeably to the discretion of the Commander-in-chief of the expedition, and might have been applied, if he thought proper, to the payment of the discharged levies, and would have been sufficient for two months pay to the officers, and four months pay to the privates. This sum is admitted by the Quartermaster General to have been in his hands at the time of the discharge of the levies, and would have been applied to their pay if orders had been given by the Commander-in-chief of the expedition for that purpose; but that no such orders ever were received by him. The Secretary of War infers, from these circumstances, that no censure should be imputed to the War Department for not having paid implicit attention to this subject.

The circumstances respecting this transaction have been attentively examined by the Committee, and appear to them to be the following: The Quartermaster General, upon his leaving Philadelphia, was furnished with the sum of twenty thousand dollars for the use of that Department. He was afterwards furnished with two other sums, to wit: the sum of seventeen thousand eight hundred and forty-four dollars and fifty cents, on the twenty-third of July; and the sum of two thousand two hundred and twenty-four dollars and sixty cents, on the seventh day of July—making, together, the sum of twenty thousand and sixty-nine dollars and ten cents. It appears by letter from the Secretary of War to the Commander-in-chief of the expedition, that five thousand dollars of this sum were to be applied to the pay of the regular troops, if the Commander-in-chief should deem that a proper application of the money; which, however, was not done. The remaining part of this money was intended to form a kind of military chest, to answer contingent expenses, subject, however, to the control of the Commander-in-chief. It appears that the

Quartermaster General, in addition to these supplies of cash, was authorized to draw bills on the Secretary of War, with this restriction—that the Commander-in-chief should approve of all drafts, and certify the necessity or propriety of making them. The Quartermaster General commenced his drafts at Fort Pitt, previously to his arrival at headquarters, to the amount of two thousand six hundred dollars, and continued them after his arrival; but it does not appear that those drafts were certified or sanctioned by the Commander-in-chief; all which drafts were honored by the Secretary of War.

It is suggested by the Commander-in-chief that he never considered the money, before mentioned, appropriated to the pay of the levies, upon their discharges, nor that it was ever intended to be applied to that object. He further suggests a want of knowledge of the money said to be on hand at the time of the discharges of the levies, although he admits that the Quartermaster General shortly after his arrival at headquarters tendered him a statement of the cash on hand, which he returned, without examination, observing, that he had already received sufficient information relatively thereto from the Secretary of War; that he was informed of the amount of moneys originally received by the Quartermaster General, and conceived that he could form some idea of the balance on hand from the sums disbursed in consequence of warrants drawn by him, which he expected were paid from that fund; that his want of information as to the real balance arose from the circumstance of the bills drawn by the Quartermaster General without his knowledge, or the requisite certificate from him, which bills operated as a relief to that fund for their amount. The Commander-in-chief of the expedition further suggested to the Committee, in presence of the Quartermaster General, that, upon making drafts upon the fund before alluded to, he usually inquired of the Quartermaster General whether it was sufficient for the purpose of answering the draft, and upon repeating this inquiry, just before the discharge of the levies, he received for answer, "that the chest was very low." This statement was acquiesced in, or at least not denied, by the Quartermaster General.

The Quartermaster General has furnished the Committee with a statement of his account, by which it appears that he had on hand, on the fifth day of November, one thousand seven hundred and ninety-one, cash, to the amount of fifteen thousand nine hundred and twelve dollars and forty-two cents, and two-thirds of a cent, which, he suggests, have since been applied to the use of his Department. This balance is denied to have been on hand, by the Commander-in-chief, at that time, and he has furnished a statement of disbursements from the original fund; which leaves the amount of the balance at the time of the discharge of the levies, of one thousand four hundred and eighty-three dollars and eighty-six cents, exclusive of five thousand dollars appropriated to the pay of the old troops.

The Commander-in-chief further suggests, that



*Re-Organization of Supreme Court.*

there was no Paymaster to the Army, nor any person authorized to settle the accounts of the soldiers, and ascertain the real balances due to them, until the arrival of Mr. Swann, on the third day of January, one thousand seven hundred and ninety-two, and infers that he had no authority to direct a settlement and order pay to the soldiers, until he was informed of the arrangements made at the War Office relatively to that object. This suggestion is strongly confirmed by a letter from the Secretary of War, addressed to the Commander-in-chief, and forwarded by Mr. Swann, which designates Mr. Swann as Paymaster, and contains instructions relatively to the terms of settling the accounts of the soldiery. The same letter serves to show that the twenty thousand and sixty-nine dollars and ten cents, put into the possession of the Quartermaster General, were not conclusively destined for the pay of the levies, nor so considered by the Secretary of War. Because it is asserted in the letter, that Mr. Swann is furnished with a sum of money sufficient for the whole pay of the levies, without making any deduction in consequence of the moneys furnished the Quartermaster General.

It is asserted by the Secretary of War in his communication to the Committee, that the time of the service of the levies did not expire until after the arrival of Mr. Swann at Fort Washington, particularly Gaither's and Rhea's battalions, the term of their enlistments having been to serve six months after their arrival at Fort Washington, which was deemed the place of rendezvous. The time which has elapsed from the period of enlistment to their arrival at Fort Washington, or the evident impropriety of annexing such a condition to the enlistments, caused the condition itself to be dispensed with; and those levies were actually discharged shortly after the twelfth of November, one thousand seven hundred and ninety-one, in consequence of having served six months, which is the extent of the service authorized by law, and actually received certificates at that time of having performed six months service.

Upon a re-examination of the residue of the original report, and the evidence now before the Committee, they are satisfied with the same, and find no material alterations or corrections necessary.

A regard for candor has induced the Committee to adopt this mode of reporting; because the original report is thereby preserved, mistakes existing in the same, and which are now corrected, and the causes of those mistakes rendered obvious, and the whole subject presented to view, upon the fairest terms, in the opinion of the Committee, to all persons in any degree concerned therein.

## RE-ORGANIZATION OF SUPREME COURT.

*Gentlemen of the Senate, and  
of the House of Representatives:*

I lay before you a copy of a Letter and representation from the Chief Justice and Associate

Judges of the Supreme Court of the United States, stating the difficulties and inconveniences which attend the discharge of their duties, according to the present Judiciary system.

A copy of a Letter from the Judges attending the Circuit Court of the United States for the North Carolina district, in June last, containing their observations on an act passed during the last session of Congress, entitled "An act to provide for the settlement of the claims of widows and orphans barred by the limitations heretofore established, and to regulate the claims to invalid pensions."

GEO. WASHINGTON.

UNITED STATES, Nov. 7, 1792.

PHILADELPHIA, Aug. 9, 1792.

SIR: Your official connexion with the Legislature, and the consideration that applications from us to them cannot be made in any manner so respectful to Government as through the President, induce us to request your attention to the enclosed representation, and that you will be pleased to lay it before the Congress.

We really, sir, find the burdens laid upon us so excessive that we cannot forbear representing them in strong and explicit terms.

On extraordinary occasions we shall always be ready, as good citizens, to make extraordinary exertions; but while our country enjoys prosperity, and nothing occurs to require or justify such severities, we cannot reconcile ourselves to the idea of existing in exile from our families, and of being subjected to a kind of life on which we cannot reflect without experiencing sensations and emotions more easy to conceive than proper for us to express.

With the most perfect respect, esteem, and attachment, we have the honor to be, sir, your most obedient and most humble servants,

JOHN JAY,  
WILLIAM CUSHING,  
JAMES WILSON,  
JOHN BLAIR,  
JAMES IREDELL,  
THOMAS JOHNSON.

The PRESIDENT OF THE UNITED STATES.

*The Chief Justice and the Associate Judges of the Supreme Court respectfully represent to the Congress of the United States:*

That when the present judicial arrangements took place, it appeared to be a general and well-founded opinion, that the act then passed was to be considered rather as introducing a temporary expedient than a permanent system, and that it would be revised as soon as a period of greater leisure should arrive. The subject was new, and was rendered intricate and embarrassing by local as well as other difficulties; and there was reason to presume that others, not at that time apparent, would be discovered by experience. The ensuing sessions of Congress were so occupied by other affairs of great and pressing importance, that the Judges thought it improper to interrupt the attention of Congress by any application on the



THE

DEBATES AND PROCEEDINGS

IN THE

CONGRESS OF THE UNITED STATES;

WITH

AN APPENDIX,

CONTAINING

IMPORTANT STATE PAPERS AND PUBLIC DOCUMENTS,

AND ALL

THE LAWS OF A PUBLIC NATURE;

WITH A COPIOUS INDEX.

---

THIRD CONGRESS:

COMPRISING THE PERIOD FROM DECEMBER 2, 1793, TO MARCH 3, 1795,  
INCLUSIVE.

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COMPILED FROM AUTHENTIC MATERIALS.

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WASHINGTON:

PRINTED AND PUBLISHED BY GALES AND SEATON.

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1855.

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# PROCEEDINGS

OF

## THE SENATE OF THE UNITED STATES,

AT THE FIRST SESSION OF THE THIRD CONGRESS, BEGUN AT THE CITY OF  
PHILADELPHIA, DECEMBER 2, 1793.

### NOTE TO THE READER.

To account for the absence of any Report of *Debates* in the Senate in the Third Congress, it is proper here to repeat that the Senate sat with closed doors during its Legislative as well as its Executive sittings, from the beginning of the first Congress up to the 20th day of February, 1794, when a proposition succeeded, which had frequently before failed, in that body, that the Legislative sittings of the Senate should thenceforth, after the end of that session of Congress, be conducted with open doors and galleries.

MONDAY, December 2, 1793.

This being the day fixed by the Constitution for the annual meeting of Congress, the following members of the Senate appeared, produced their credentials, and took their seats:

JOHN ADAMS, Vice President of the United States and President of the Senate;

JOHN LANGDON and SAMUEL LIVERMORE, from New Hampshire;

GEORGE CABOT, from Massachusetts;

OLIVER ELLSWORTH, from Connecticut;

MOSES ROBINSON, from Vermont;

AARON BURR, from New York;

JOHN RUTHERFURD, from New Jersey;

ROBERT MORRIS and ALBERT GALLATIN, from Pennsylvania;

JAMES MONROE, from Virginia;

JOHN EDWARDS, from Kentucky;

BENJAMIN HAWKINS, from North Carolina;

RALPH IZARD, from South Carolina.

Mr. LANGDON, the President of the Senate *pro tempore*, administered the oath required by law to the VICE PRESIDENT OF THE UNITED STATES.

The Secretary read the credentials of the following Senators appointed for the terms respectively mentioned therein:

PIERCE BUTLER, from South Carolina;

ALEXANDER MARTIN, from North Carolina;

JOHN VINING, from Delaware.

The VICE PRESIDENT administered the oath required by law to Mr. BUTLER, Mr. GALLATIN, and Mr. MARTIN, respectively, and they took their seats.

STEPHEN MIX MITCHELL, appointed by the State of Connecticut a Senator for two years, in the place of ROGER SHERMAN, deceased, produced his credentials, which being read, the VICE PRESIDENT administered to him the oath required by law, and he took his seat.

The VICE PRESIDENT laid before the Senate the petition of Conrad Laub and others, relative to the appointment of Mr. GALLATIN, a Senator of the

United States; which was read, and ordered to lie on the table.

The VICE PRESIDENT also communicated a letter from GEORGE REID, of Delaware, resigning his seat in the Senate; which was read, and ordered to lie on the table.

*Ordered*, That the Secretary acquaint the House of Representatives that a quorum of the Senate is assembled and ready to proceed to business.

*Ordered*, That Messrs. IZARD and LANGDON be a joint committee on the part of the Senate, together with such committee as the House of Representatives may appoint, on their part, to wait on the PRESIDENT OF THE UNITED STATES, and notify him that a quorum of the two Houses is assembled, and ready to receive any communications that he may be pleased to make to them.

A message from the House of Representatives informed the Senate that the House had elected FREDERICK A. MUELENBERG their Speaker, and that they have concurred with the Senate in appointing a joint committee to wait on the PRESIDENT OF THE UNITED STATES.

Mr. IZARD, from the joint committee who had waited on the PRESIDENT, reported that the PRESIDENT would meet the two Houses to-morrow, at 12 o'clock, in the Senate Chamber.

TUESDAY, December 3.

The two Houses being assembled in the Senate Chamber, the PRESIDENT OF THE UNITED STATES entered, and addressed the two Houses of Congress as follows:

*Fellow-citizens of the Senate, and  
of the House of Representatives:*

Since the commencement of the term for which I have been again called into office, no fit occasion has arisen for expressing to my fellow-citizens at large the deep and respectful sense which I feel of the renewed testimony of public approbation. While, on the one hand, it awakened my gratitude for all those instances

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*Proceedings.*

[SENATE.]

to them delegated, declare to be the final and conclusive balances due to and from the several States.

WILLIAM IRVINE,  
JOHN KEAN,  
WOODBURY LANGDON.

OFFICE OF THE COMMISSIONERS OF ACCOUNTS,  
Philadelphia, June 29, 1793.

FRIDAY, December 6.

A message from the House of Representatives informed the Senate that they had elected the Rev. ASHBEL GREEN as Chaplain to Congress, on their part.

Mr. ELLSWORTH, from the committee appointed to report the draft of an address to the PRESIDENT OF THE UNITED STATES, made a report; which was read, and ordered for consideration on Monday next.

The Senate resumed the reading of the communications referred to in the Message of the PRESIDENT of the 5th instant; and, after progress, adjourned to Monday.

MONDAY, December 9.

MESSRS. STEPHEN R. BRADLEY, from Vermont, THEODORE FOSTER, from Rhode Island, and RUFUS KING, from New York, appeared and took their seats.

The VICE PRESIDENT laid before the Senate a Letter of the 7th instant, from Samuel Meredith, Treasurer of the United States, with his quarterly accounts, made up to the 31st of March last, together with his accounts respecting the Department of War, made up to the 30th of June last.

The Letter was read.

*Ordered,* That the Letter and papers therein referred to lie on the table.

Agreeably to the order of the day, the Senate took into consideration the draft of an Address reported by the committee in answer to the Speech of the PRESIDENT OF THE UNITED STATES to Congress at the opening of the session; which, being amended, and the several paragraphs of the report agreed to, it was adopted, as follows:

*"To the President of the United States:*

"Accept, sir, the thanks of the Senate for your Speech delivered to both Houses of Congress at the opening of the session. Your re-election to the Chief Magistracy of the United States gives us sincere pleasure. We consider it as an event every way propitious to the happiness of our country; and your compliance with the call, as a fresh instance of the patriotism which has so repeatedly led you to sacrifice private inclination to the public good. In the unanimity which a second time marks this important national act, we trace, with particular satisfaction, besides the distinguished tribute paid to the virtues and abilities which it recognises, another proof of that just discernment and constancy of sentiments and views which have hitherto characterized the citizens of the United States.

"As the European Powers with whom the United States have the most extensive relations were involved in war, in which we had taken no part, it seemed necessary that the disposition of the nation for peace should be promulgated to the world, as well for the purpose of admonishing our citizens of the consequences

of a contraband trade and of acts hostile to any of the belligerent parties, as to obtain, by a declaration of the existing legal state of things, an easier admission of our right to the immunities of our situation; we therefore, contemplate with pleasure the proclamation by you issued, and give it our hearty approbation. We deem it a measure well-timed and wise, manifesting a watchful solicitude for the welfare of the nation, and calculated to promote it.

"The several important matters presented to our consideration will, in the course of the session, engage all the attention to which they are respectively entitled; and, as the public happiness will be the sole guide of our deliberations, we are perfectly assured of receiving your strenuous and most zealous co-operation.

"JOHN ADAMS,

*"Vice President of the United States,  
and President of the Senate."*

*Ordered,* That MESSRS. ELLSWORTH and BUTLER wait on the PRESIDENT OF THE UNITED STATES, and desire him to acquaint the Senate at what time and place it will be most convenient for him that the foregoing address should be presented.

TUESDAY, December 10.

JOHN BROWN, from the State of Kentucky, attended to-day.

Mr. ELLSWORTH reported, from the committee appointed yesterday to wait on the PRESIDENT OF THE UNITED STATES, that the PRESIDENT proposed to receive the Address of the Senate this day, at 12 o'clock, at his own house. Whereupon, the Senate waited on the PRESIDENT OF THE UNITED STATES, and the VICE PRESIDENT, in their name, presented the address agreed to on the 9th instant. To this Address the PRESIDENT OF THE UNITED STATES was pleased to make the following Reply:

"GENTLEMEN: The pleasure expressed by the Senate on my re-election to the station which I fill, commands my sincere and warmest acknowledgments. If this be an event which promises the smallest addition to the happiness of our country, as it is my duty, so shall it be my study, to realize the expectation.

"The decided approbation which the Proclamation now receives from your House, by completing the proofs that this measure is considered as manifesting a vigilant attention to the welfare of the United States, brings with it a peculiar gratification to my mind.

"The other important subjects which have been communicated to you will, I am confident, receive a due discussion; and the result will, I trust, prove fortunate to the United States.

"G. WASHINGTON."

The Senate then returned to their Chamber, and resumed the reading of the papers communicated in the Message of the PRESIDENT OF THE UNITED STATES of the 5th instant, but adjourned before they were got through.

WEDNESDAY, December 11.

CALER STRONG, from Massachusetts, attended to-day.

The credentials of Mr. BROWN and Mr. STRONG



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were read, the usual oath administered to them, and they took their seats.

The VICE PRESIDENT laid before the Senate a Letter from the Treasurer of the United States, with his specie account, made up to the 30th of June last; which was read, and ordered to lie on the table.

*Ordered*, That MESSRS. RUTHERFORD, CABOT, ELLSWORTH, LIVERMORE, and MITCHELL, be a committee to take into consideration the petition of Conrad Laub and others, stating that the Hon. ALBERT GALLATIN, at the time he was elected a Senator of the United States, had not been nine years a citizen of the said United States, as is required by the Constitution, and report thereon to the Senate.

The Senate resumed the reading of the papers referred to in the Message of the PRESIDENT OF THE UNITED STATES of the 5th instant; and, after progress, adjourned.

FRIDAY, December 13.

WILLIAM BRADFORD, from Rhode Island, and JOHN TAYLOR, from Virginia, attended, produced their credentials, and took the usual oath and their seats.

The Senate resumed the reading of the papers communicated with the Message of the PRESIDENT on the 5th instant; and the Message and papers therein referred to were ordered to lie for consideration.

MONDAY, December 16.

JAMES JACKSON, from Georgia, attended, produced his credentials, and, the oath required by law being administered to him, he took his seat in the Senate.

The Communications from the Secretary of the Department of War, of the 4th instant, were read, and ordered to lie for consideration.

The VICE PRESIDENT laid before the Senate a Letter from the Secretary of the Department of War, with a return of the ordnance, arms, and military stores, in possession of the United States, together with a variety of papers, giving a view of the Southwestern frontiers, as connected with the Creek Indians and the State of Georgia, and the Southwestern territory of the United States and the Cherokees; which Letter was read.

*Ordered*, That the Letter and papers therein referred to lie on the table.

The following Messages were received from the PRESIDENT OF THE UNITED STATES, and read:

*Gentlemen of the Senate, and  
of the House of Representatives:*

The situation of affairs in Europe, in the course of the year 1790, having rendered it possible that a moment might arrive favorable for the arrangement of our unsettled matters with Spain, it was thought proper to prepare our Representative at that Court to avail us of it. A confidential person was therefore despatched to be the bearer of instructions to him, and to supply, by verbal communication, any additional information of which he might find himself in need. The Government of France was, at the same time, applied to for its aid and influence in this negotiation. Events, how-

ever, took a turn which did not present the occasion hoped for.

About the close of the ensuing year I was informed, through the Representatives of Spain here, that their Government would be willing to renew at Madrid the former conferences on these subjects. Though the transfer of scene was not what would have been desired, yet I did not think it important enough to reject the proposition; and, therefore, with the advice and consent of the Senate, I appointed Commissioners Plenipotentiary for negotiating and concluding a Treaty with that country, on the several subjects of boundary, navigation, and commerce, and gave them the instructions now communicated. Before these negotiations, however, could be got into train, the new troubles which had arisen in Europe had produced new combinations among the Powers there, the effects of which are but too visible in the proceedings now laid before you.

In the meantime some other points of discussion had arisen with that country, to wit: the restitution of property escaping into the territories of each other, the mutual exchange of fugitives from justice, and, above all, the mutual interferences with the Indians lying between us. I had the best reason to believe that the hostilities threatened and exercised by the Southern Indians on our border were excited by the agents of that Government. Representations were thereon directed to be made by our Commissioners to the Spanish Government, and a proposal to cultivate, with good faith, the peace of each other with those people. In the mean time corresponding suspicions were entertained, or pretended to be entertained on their part, of like hostile excitements by our agents to disturb their peace with the same nations. These were brought forward by the Representatives of Spain here, in a style which could not fail to produce attention. A claim of patronage and protection of those Indians was asserted; a mediation between them and us by that Sovereign assumed; their boundaries with us made a subject of his interference; and, at length, at the very moment when these savages were committing daily inroads upon our frontier, we were informed by them that "the continuation of the peace, good harmony, and perfect friendship of the two nations was very problematical for the future, unless the United States should take more convenient measures, and of greater energy, than those adopted for a long time past."

If their previous correspondence had worn the appearance of a desire to urge on a disagreement, this last declaration left no room to evade it, since it could not be conceived we would submit to the scalping knife and tomahawk of the savage without any resistance. I thought it time, therefore, to know if these were the views of their Sovereign, and despatched a special messenger with instructions to our Commissioners, which are among the papers now communicated. Their last letter gives us reason to expect very shortly to know the result. I must add that the Spanish Representatives here, perceiving that their last communication had made considerable impression, endeavored to abate this by some subsequent professions, which, being also among the communications to the Legislature, they will be able to form their own conclusions.

GEO. WASHINGTON.

UNITED STATES, December 16, 1793.

*Gentlemen of the Senate, and  
of the House of Representatives:*

I lay before you a Report of the Secretary of State on the measures which have been taken on behalf of

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Mr. RUTLER notified the Senate that he should, on some day the next week, request leave to bring in a bill in addition to the act, entitled "An act to incorporate the subscribers to the Bank of the United States."

The following motion was made and seconded, to wit: That the Constitution be amended by adding, at the end of the ninth section of the first article, the following clause:

"Nor shall any person holding any office or stock in any institution in the nature of a Bank for issuing or discounting bills or notes payable to bearer or order, under the authority of the United States, be a member of either House whilst he holds such office or stock; but no power to grant any charter of incorporation, or any commercial or other monopoly, shall be herein implied."

And it was agreed that this motion should lie for consideration:

*Ordered*, That Messrs. STRONG, ELLSWORTH, and KING, be a committee to take into consideration that part of the PRESIDENT'S Speech which recommends a further provision against offences.

The Senate resumed the reading of the communications from the Secretary of the Department of War of the 16th instant, relative to further information respecting the Southwestern frontiers; and, after progress, the Senate adjourned to Thursday next.

THURSDAY, December 26.

Agreeably to notice given on the 23d instant, Mr. BRADLEY obtained leave to bring in a bill making an alteration in the Flag of the United States; and the bill was read the first time, and ordered to a second reading.

The Senate resumed the reading of the communications from the Secretary of the Department of War of the 16th instant, relative to further information respecting the Southwestern frontiers; and, after progress, the Senate adjourned.

FRIDAY, December 27.

The Senate proceeded to the second reading of the bill making an alteration in the Flag of the United States; and, having amended the same, the bill was ordered to a third reading.

The Senate resumed the reading of the communications from the Secretary of the Department of War of the 16th instant, relative to further information respecting the Southwestern frontiers.

*Ordered*, That the communications lie for consideration.

MONDAY, December 30.

The bill making an alteration in the Flag of the United States, was read the third time, and passed.

The petition of James and William Smith, of the State of Georgia, for themselves, and in behalf of the heirs of James Smith, was presented and read, praying for remedy and assistance in respect to certain losses sustained by the Creek Indians.

*Ordered*, That this petition, together with the communications, from the Secretary of the Department of War, respecting Indian Affairs, be referred to Messrs. JACKSON, STRONG, BURR, BUTLER, and LANGDON, to consider and report thereon.

TUESDAY, December 31.

The following Messages were received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and  
of the House of Representatives:*

I lay before you, for your consideration, a Letter from the Secretary of State, informing me of certain impediments which have arisen to the coinage of the precious metals at the Mint.

As also a Letter from the same officer, relative to certain advances of money which have been made on public account. Should you think proper to sanction what has been done, or be of opinion that any thing more shall be done in the same way, you will judge whether there are not circumstances which would render secrecy expedient.

G. WASHINGTON.

UNITED STATES, December 30, 1793.

*Gentlemen of the Senate, and  
of the House of Representatives:*

I communicate to you the translation of a Letter received from the Representatives of Spain here, in reply to that of the Secretary of State to them, of the 21st instant, which had before been communicated to you.

G. WASHINGTON.

UNITED STATES, December 30, 1793.

The Messages and papers therein referred to were severally read, and ordered to lie for consideration.

Mr. RUTHERFURD reported, from the committee to whom was referred the petition of Conrad Laub and others, stating that the Hon. ALBERT GALLATIN, at the time he was elected a Senator of the United States, had not been nine years a citizen of the said United States, as is required by the Constitution; which report was read, and ordered to lie for consideration.

WEDNESDAY, January 1, 1794.

The Senate proceeded to the consideration of the report of the committee to whom was referred the petition of Conrad Laub and others.

On motion to postpone the consideration of the report until to-morrow, it was agreed to amend this motion, by striking out the words "to-morrow," and to insert, in lieu thereof, "Thursday, the 9th instant."

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and  
of the House of Representatives:*

I now lay before you a Letter from the Secretary of State, with his account of the expenditure of the moneys appropriated for our intercourse with foreign nations from the 1st of July, 1792, to the 1st of July, 1793, and other papers relating thereto.

G. WASHINGTON.

UNITED STATES, December 31, 1793.



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5th. The Domestic Loans for cash, contracted since the commencement of the present Government, stating the respective times when borrowed, and when becoming due, together with the rate of interest.

6th. All other kinds of Domestic Debts not specially included under the five preceding heads, for the payment of which no appropriations have been made.

Second. A statement of the Domestic Debt redeemed since the commencement of the present Government to the first day of January, 1794, distinguishing the different species of Debt, and specifying the mode of redemption, and, when redeemed for money, the amount of moneys expended in purchasing the same.

Third. A general statement of the Foreign Debt of the United States, as due on the first day of January, 1794, stating separately the French Debt, the other Debts contracted before the commencement of the present Government, and the Loans contracted since that time; and specifying, in each Debt or Loan, the original amount, the time from which the interest commenced, the payments already made, with the dates of the same, and the places where paid, the amount yet due, and the respective times when the same shall become due.

Fourth. A specific account of the application of the moneys obtained upon Foreign Loans contracted since the commencement of the present Government, to the first day of January, 1794, stating the amount of the moneys drawn over to America, and of those applied in Europe, together with the dates of such applications or drafts.

Fifth. A summary statement of the actual receipts and expenditures, from the commencement of the present Government to the last day of December, 1790, including all moneys received on account of the United States, such parts of the Foreign Loans as have not been drawn over to America only excepted; distinguishing the moneys received under each branch of the revenue, and the moneys expended under each appropriation, and stating the balances of each branch of the revenue remaining unexpended on the 31st day of December, 1790; specifying, separately, such balances as were on that day in the Treasury, and such as were uncollected, or in hands of any banks, officers, or other persons.

Sixth. Similar and separate statements for the years 1791, 1792, and 1793, respectively, specifying separately in each statement under each branch of the revenue, the moneys received on account of the revenue of that year, and those received on account of the revenue of each preceding year; and stating, so far as the same is now practicable, the amount of all moneys, bonds, or securities, on hand on the first day of January, 1794, with the times of payment of such bonds or securities.

*Ordered*, That this motion lie for consideration.

A message from the House of Representatives informed the Senate, that the House of Representatives have passed the bill sent from the Senate for concurrence, entitled "An act making an alteration in the Flag of the United States."

#### THURSDAY, January 9.

Agreeably to the order of the day, the Senate took into consideration the report of the committee on the petition of Conrad Laub and others, respecting the appointment of ALBERT GALLATIN to be a Senator of the United States.

On motion,

*Ordered*, That the further consideration of the report be postponed until to-morrow.

A motion was made, that the following amendment be recommended to the Legislatures of the respective States as part of the Constitution of the United States, two-thirds of both Houses agreeing thereto:

"The powers of the Government of the United States shall not extend to curtail or abridge the limits of the United States, as defined in the Treaty of Peace between Great Britain and the said States, dated at Paris, the third day of September, 1783, nor shall the State rights of pre-emption to Indian hunting grounds, within the respective limits, after a fair treaty and sale, be questioned."

*Ordered*, That this motion lie on the table.

#### FRIDAY, January 10.

The Senate resumed the consideration of the report of the committee on the petition of Conrad Laub and others, respecting the appointment of ALBERT GALLATIN a Senator of the United States; which report is as follows:

The committee, to whom was referred the petition of Conrad Laub and others, stating that ALBERT GALLATIN, at the time he was elected a Senator of the United States, had not been nine years a citizen of the said United States, as is required by the Constitution, report:

"That the committee have conferred with Mr. Michael Schmyser, agent for the petitioners, and with Mr. GALLATIN; that Mr. Schmyser has declared that the petitioners are ready to adduce proofs in support of the petition at such time as the Senate may think proper to appoint; that Mr. GALLATIN states no objection to the trial's commencing at an early day. The committee therefore recommend that the Senate agree to the following resolution:

*Resolved*, That — be assigned for bearing the petition of Conrad Laub and others, respecting Mr. GALLATIN's right to a seat in the Senate, and that Messrs. GALLATIN and Schmyser be furnished with a copy of this resolution."

On motion, it was agreed to postpone the report of the committee, and to take into consideration the following resolution:

*Resolved*, That a Committee of Elections, to consist of seven, be appointed to report rules for receiving petitions and conducting inquiries relative to the qualifications of a Senator; and that the petition of Conrad Laub and others be referred to the same committee, to state the facts, and that they be authorized to send for persons and papers."

On which a motion was made and seconded to postpone this motion and to take up the following:

"That — be a committee to ascertain and state to the Senate the facts relative to the time when ALBERT GALLATIN became a citizen of the United States, and that the said committee have power to send for persons and papers."

Whereupon, a motion was made and seconded to postpone the preceding, and to take into consideration the following motion:

*Resolved*, That a Committee of Elections be appointed, and that the petition of Conrad Laub and



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others be referred to it, to report their opinion on the merits of the said petition."

And, after debate, the Senate adjourned.

MONDAY, January 13.

The Senate resumed the consideration of the petition of Conrad Laub and others, respecting the appointment of Mr. GALLATIN to be a Senator of the United States.

On motion,

*Ordered*, That a Committee of Elections, to consist of seven, be appointed, and that the petition of Conrad Laub and others be referred, without prejudice as to any questions which may, upon the hearing, be raised by the sitting member, as to the sufficiency of the parties and the matter charged in the petition, to the same committee, to state the facts, and that they be authorized to send for persons and papers; also, that Messrs. BRADLEY, ELLSWORTH, MITCHELL, RUTHERFURD, BROWN, LIVERMORE, and TAYLOR, be this committee.

Agreeably to the order of the day, the Senate took into consideration the subject of amendments to the Constitution of the United States; and it was agreed to consider at this time the following motion:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, two thirds of both Houses concurring, That the following article be proposed to the Legislatures of the several States, as an amendment to the Constitution of the United States; which, when ratified by three-fourths of the said Legislatures, shall be valid as part of the said Constitution, to wit:

"The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State."

And, after debate, the further consideration thereof was postponed until to-morrow.

*Ordered*, That the further consideration of the motions of the 24th of December last, and the 9th of January instant, on the subject of amendments to the Constitution of the United States, be postponed until to-morrow, and that the several motions on this subject be printed for the use of the Senate.

The Senate resumed the consideration of the motion made the third instant, respecting certain statements from the Secretary of the Treasury; and, having agreed to sundry amendments thereon, it was adopted, as follows:

*Ordered*, That the Secretary of the Treasury lay before the Senate a statement of the goods, wares, and merchandise, exported from the several States from the first day of July, 1792, to the 30th day of June, 1793; specifying the quantities and value of each kind, and the several countries to which the same have respectively been exported.

Statements of the goods, wares, and merchandise imported into the several States, from the 1st day of July, 1791, to the 30th day of June, 1792, and from the 1st day of July, 1792, to the 30th day of June, 1793; specifying, for each period sepa-

ately, the quantities and the prime cost and dutied values of each kind, and the several countries from which the same have respectively been imported.

Statements of the tonnage of foreign vessels, entered into the several States, from the 1st day of July, 1791, to the 30th day of June, 1792, and from the 1st day of July, 1792, to the 30th day of June, 1793; specifying, for each period separately, the several countries to which the said vessels respectively belong.

Statements of the tonnage of the United States' vessels, entered into the several States, from the 1st day of July, 1791, to the 30th day of June, 1792, and from the 1st day of July, 1792, to the 30th day of June, 1793; distinguishing, for each period separately, those employed in fisheries, in the coasting and in the foreign trade, and specifying the several countries from which the said vessels employed in the foreign trade came.

TUESDAY, January 14.

Agreeably to the order of the day, the Senate took into consideration the motion made yesterday for an amendment to the Constitution of the United States, respecting the Judicial power thereof.

On motion by Mr. GALLATIN, that the motion be amended to read as follows:

"The Judicial power of the United States, except in cases arising under treaties made under the authority of the United States, shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States, by citizens of another State, or by citizens or subjects of any foreign State."

It passed in the negative.

On motion, that the motion be amended to read as follows:

"The Judicial power of the United States extends to all cases in law and equity in which one of the United States is a party; but no suit shall be prosecuted against one of the United States by citizens of another State, or by citizens or subjects of a foreign State, where the cause of action shall have arisen before the ratification of this amendment."

It passed in the negative.

And on the question to agree to the resolution as follows:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, two-thirds of both Houses concurring, That the following article be proposed to the Legislatures of the several States, as an amendment to the Constitution of the United States; which, when ratified by three-fourths of the said Legislatures, shall be valid as part of the said Constitution, to wit:

"The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States, by citizens of another State, or by citizens or subjects of any foreign State."

It passed in the affirmative—yeas 23, nays 2, as follows:

YEAS.—Messrs. Bradford, Bradley, Brown, Burr, Butler, Cabot, Edwards, Ellsworth, Foster, Frelinghuy-

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sen, Hawkins, Jackson, Izard, King, Langdon, Livermore, Martin, Mitchell, Monroe, Robinson, Strong, Taylor, and Vining.

**YAYS.**—Messrs. Gallatin and Rutherford.

*Ordered*, That the Secretary desire the concurrence of the House of Representatives in this resolution.

The Senate proceeded to the consideration of the following motion, viz :

"That the Constitution be amended by adding, at the end of the 9th section of the 1st article, the following clause :

"Nor shall any person, holding any office or stock in any institution in the nature of a Bank, for issuing or discounting bills or notes payable to bearer or order, under the authority of the United States, be a member of either House whilst he holds such office or stock; but no power to grant any charter of incorporation, or any commercial or other monopoly, shall be hereby implied."

And, after debate, the further consideration of this motion was postponed until to-morrow.

WEDNESDAY, January 15.

The following Message was received from the PRESIDENT OF THE UNITED STATES :

*Gentlemen of the Senate, and  
of the House of Representatives :*

I lay before you, as being connected with the correspondence already in your possession, between the Secretary of State and the Minister Plenipotentiary of the French Republic, the copy of a Letter from that Minister of the 25th of December, 1792, and a copy of the proceedings of the Legislature of the State of South Carolina.

G. WASHINGTON.

UNITED STATES, January 15, 1794.

The Message and papers therein referred to were read, and ordered to lie for consideration.

The Senate resumed the consideration of the motion made yesterday for an amendment to the Constitution of the United States, inhibiting the holders of any office or stock in the Bank of the United States from a seat in either House of Congress.

On motion to amend the motion, to be read as follows :

"Nor shall any person holding any office in any institution in the nature of a Bank, under the authority of the United States, be a member of either House whilst he holds such office; but no power to grant any charter of incorporation, or any commercial or other monopoly, shall be hereby implied."

And, after debate, the further consideration thereof was postponed until to-morrow.

THURSDAY, January 16.

The Senate resumed the consideration of the motion made yesterday, to amend the motion under consideration the 14th instant, for an amendment to the Constitution of the United States, inhibiting the holders of any office or stock in the Bank of the United States from a seat in either House of Congress.

On motion to amend the amendment, so that it be read as follows :

"Nor shall any person holding any office in the Bank of the United States be a member of either House whilst he holds such office; but no power to grant any charter of incorporation, or any commercial or other monopoly shall be hereby implied."

It passed in the affirmative yeas 13, nays 12, as follows :

**YEAS.**—Messrs. Bradley, Brown, Burr, Butler, Edwards, Gallatin, Hawkins, Jackson, Izard, Martin, Monroe, Robinson, and Taylor.

**NAYS.**—Messrs. Bradford, Cabot, Ellsworth, Foster, Frelinghuysen, King, Langdon, Livermore, Mitchell, Morris, Strong, and Vining.

On motion it was agreed to expunge the following clause of the motion last adopted :

"But no power to grant any charter of incorporation, or any commercial or other monopoly, shall be hereby implied;" and,

On the question to agree to the motion, amended as follows :

"Nor shall any person holding any office in the Bank of the United States be a member of either House whilst he holds such office."

It passed in the negative, yeas 12, nays 13—as follows :

**YEAS.**—Messrs. Bradley, Brown, Burr, Butler, Edwards, Gallatin, Hawkins, Jackson, Martin, Monroe, Robinson, and Taylor.

**NAYS.**—Messrs. Bradford, Cabot, Ellsworth, Foster, Frelinghuysen, Izard, King, Langdon, Livermore, Mitchell, Morris, Strong, and Vining.

On motion it was agreed that the further consideration of amendments to the Constitution of the United States be postponed.

The following Message was received from the PRESIDENT OF THE UNITED STATES :

*Gentlemen of the Senate, and  
of the House of Representatives :*

I transmit, for your information, certain intelligence lately received from Europe, as it relates to the subject of my past communications.

G. WASHINGTON.

UNITED STATES, January 16, 1794.

The Message and papers referred to were read, and ordered to lie for consideration.

*Ordered*, That the Secretary of the Department of State be requested to lay before the Senate a translation of the Act of Navigation passed by the National Convention of France, communicated this day in the original.

Agreeably to notice given, Mr. BUTLER obtained leave to bring in a bill to amend the act, entitled "An act to incorporate the subscribers to the Bank of the United States;" which was read the first time.

On motion that this bill have a second reading, in the words following, to wit :

Whereas it is inexpedient that the Government of the United States should continue to hold any stock in the Bank of the United States, or have any political connexion with the said Bank, or any other connexion with it, otherwise than in common with other banks within the United States :



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1st. *Be it therefore enacted by the Senate and House of Representatives in Congress assembled, and by the authority of the same,* That the 11th and 16th articles of the 7th section, and the 9th section, of the act, entitled "An act to incorporate the subscribers to the Bank of the United States," be, and the same are hereby, repealed.

2d. *Be it further enacted,* That the President of the United States be, and he is hereby, authorized to dispose of, by sale, in such manner as he shall deem most conducive to the public interest, and as soon as may be after the passing of this act, all the interest or stock which the public were possessed of, or entitled to, in the said Bank, by virtue of their subscription to the same, in conformity to the 11th section of said act, the proceeds of which sales shall be disposed of as hereafter directed. And whereas it is desirable that the Debt due by the United States to the said Bank, by virtue of the subscription aforesaid, should be discharged at as early a period as may be, as well that the parties interested in the institution may become possessed of the funds, by which it is designed to be constituted, as the public completely exonerated from all claims or demands on that account.

3d. *Be it further enacted,* That the President of the United States be, and he is hereby, authorized to cause to be adjusted, if practicable, with the Directors of said Bank, upon such terms as shall be deemed just and reasonable, the balance which may be due by the United States to said Bank by virtue of said subscription, and the amount to be paid off, at such time or times as shall be agreed on, out of the proceeds of the sales of said stock: *Provided, nevertheless,* That nothing herein contained shall be construed to imply any obligation on the said Directors to accept of any adjustment, or payments, other than contained in, and specified by, the act aforesaid.

4th. *And be it further enacted,* That, if any surplus or balance shall remain from the sales aforesaid, after such adjustment with, or payment to, the Directors aforesaid, such balance shall be, and is hereby, applied to.

It passed in the negative, yeas 12, nays 13—as follows:

YEAS.—Messrs. Bradley, Brown, Burr, Butler, Edwards, Gallatin, Hawkins, Jackson, Martin, Monroe, Robinson, and Taylor.

NAYS.—Messrs. Bradford, Cabot, Ellsworth, Foster, Frelinghuysen, Izard, King, Langdon, Livermore, Mitchell, Morris, Stroug, and Vining.

On motion, by Mr. MARTIN, that the Senate adopt the following resolutions:

"*Resolved,* That, in all representative Governments, the Representatives are responsible for their conduct to their constituents, who are entitled to such information that a discrimination and just estimate be made thereof.

"*Resolved,* That the Senate of the United States, being the Representatives of the sovereignties of the individual States, whose basis is the people, owe equal responsibility to the Powers by which they are appointed, as if that body were derived immediately from the people, and that all questions and debates, arising thereupon in their Legislative and Judiciary capacity ought to be public.

"*Resolved,* That the mode adopted by the Senate of publishing their Journals, and extracts from them, in newspapers, is not adequate to the purpose of circulating satisfactory information. While the principles and designs of the individual members are withheld from pub-

lic view, responsibility is destroyed, which, on the publicity of their deliberations, would be restored; the constitutional powers of the Senate become more important, in being more influential over the other branch of the Legislature; abuse of power, mal-administration of office, more easily detected and corrected; jealousies, rising in the public mind from secret Legislation, prevented, and greater confidence placed by our fellow-citizens in the National Government, by which their lives, liberties, and properties, are to be secured and protected.

"*Resolved, therefore,* That it be a standing rule, that the doors of the Senate Chamber remain open while the Senate shall be sitting in a Legislative and Judiciary capacity, except on such occasions as in their judgment may require secrecy; and that this rule commence on — day of —."

*Ordered,* That this motion lie for consideration, and that, in the mean time, the proposed resolutions be printed for the use of the Senate.

FRIDAY, JANUARY 17.

The Senate resumed the consideration of the subject of amendments to the Constitution of the United States; and, after debate, on motion, it was agreed that the further consideration thereof be postponed.

Agreeably to the order of the day, the Senate proceeded to the consideration of the motion made yesterday, that the doors of the Senate Chamber remain open under certain restrictions; and, on motion, it was agreed that the further consideration thereof be postponed until Wednesday next.

On motion, that the Senate adopt the following order:

"That the Secretary of State be directed to lay before the Senate the correspondences which have been had between the Minister of the United States at the Republic of France and said Republic, and between said Minister and the office of Secretary of State."

*Ordered,* That this motion lie until Monday next.

The Senate resumed the consideration of the motion of the 8th of January, instant, that the Secretary of the Treasury lay before the Senate certain statements of the Public Debt; and,

*Ordered,* That the further consideration thereof be postponed until Monday next.

MONDAY, JANUARY 20.

The petition of Thomas Person and others, a committee on behalf of themselves and the other purchasers of lands in the ceded Territory South of the Ohio, referring to a petition presented to the Legislature of the State of North Carolina, praying for redress of certain matters therein contained, was presented and read.

*Ordered,* That this petition lie on the table.

On motion, it was agreed that the motion made on the 17th instant, that the Secretary for the Department of State be directed to lay before the Senate the correspondences which have been had between the Minister of the United States at the Republic of France and said Republic, should be further postponed.

The consideration of the motion made on the



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8th instant, that the Secretary for the Department of the Treasury be requested to lay before the Senate certain statements of the Public Debt, was resumed; and being amended, was adopted, as follows:

*Ordered*, That the Secretary of the Treasury do lay before this House the following statements, to wit:

First. A statement of the Domestic Debt of the United States as due on the 1st day of January, 1794, specifying, under distinct heads—

1st. The Funded Debt, distinguishing the six per cents, three per cents, and Deferred Stock, and in each kind of stock stating, separately, the amount created by the assumption of the State Debts.

2d. The Registered Debt.

3d. The Debt subscribable to the Loan of the United States, but which, not being funded or registered at the Treasury, is not entitled to a dividend.

4th. The balances due to creditor States and already funded, if there be any such, being the excess of the sums respectively by law assumed for such States, above the sums actually subscribed in the Debts of the said States.

5th. The Domestic Loans for cash contracted since the commencement of the present Government, stating the respective times when borrowed and when becoming due, together with the rate of interest.

6th. All other kinds of Domestic Debts not specially included under the five preceding heads, for the payment of which, no appropriations have been made.

Second. A statement of the Domestic Debt redeemed since the commencement of the present Government, to the first day of January, 1794; distinguishing the different species of Debt, and specifying the mode of redemption, and, when redeemed for money, the amount of moneys expended in purchasing the same.

Third. A general statement of the Foreign Debt of the United States as due on the 1st day of January, 1794; stating, separately, the French Debt, the other Debts contracted before the commencement of the present Government, and the Loans contracted since that time; and specifying, in each Debt or Loan, the original amount, the time from which the interest commenced, the payments already made, with the dates of the same, and the places where paid, the amount yet due, and the respective times when the same shall become due.

Fourth. A specific account of the application of the moneys obtained upon Foreign Loans, contracted since the commencement of the present Government, to the 1st day of January, 1794, stating the amount of the moneys drawn over to America, and those applied in Europe, together with the dates of such applications or drafts.

Fifth. A summary statement of the actual receipts and expenditures from the commencement of the present Government to the last day of December, 1790, including all moneys received on account of the United States, such parts of the Foreign Loans as have not been drawn over to America only excepted; distinguishing the moneys received under each branch of the revenue, and the moneys expended under each appropriation, and stating the balances of each branch of the revenue remaining unexpended on the 31st day of December, 1790; specifying separately such balances as were on that day in the Treasury, and such as were uncollected or in the hands of any banks, officers, or other persons.

Sixth. Similar and separate statements for the years 1791, and 1792, respectively, and, so far as the same is now practicable, for the year 1793; specifying, sepa-

rately, in each statement, under each branch of the revenue, the moneys received on account of the revenue of that year and those received on account of the revenue of each preceding year, and stating, so far as the same is now practicable, the amount of all moneys, bonds or securities, on hand, on the first day of January, 1794, with the times of payment of such bonds or securities.

TUESDAY, JANUARY 21.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and  
of the House of Representatives:*

Having already laid before you a Letter of the 16th of August, 1793, from the Secretary of State to our Minister at Paris, stating the conduct and urging the recall of the Minister Plenipotentiary of the Republic of France, I now communicate to you, that his conduct has been unequivocally disapproved; and that the strongest assurances have been given, that his recall should be expedited without delay.

G. WASHINGTON.

UNITED STATES, January 20, 1794.

The Message was read, and ordered to lie on file.

The memorial of the people called Quakers, from the yearly meeting held at Rhode Island for New England, in the year 1793, was presented and read, praying Congress to exercise the authority vested in them by the Constitution for the suppression of the slave trade.

*Ordered*, That this petition lie on the table.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and  
of the House of Representatives:*

It is with satisfaction I announce to you that the alterations which have been made by law in the original plan for raising a duty on spirits distilled within the United States, and on stills, co-operating with better information, have had a considerable influence in obviating the difficulties, which have embarrassed that branch of the public revenue. But the obstacles which have been experienced, though lessened, are not yet entirely surmounted; and it would seem that some further Legislative provisions may usefully be superadded; which leads me to recal the attention of Congress to the subject. Among the matters which may demand regulation, is the effect, in point of organization, produced by the separation of Kentucky from the State of Virginia; and the situation, with regard to the law, of the Territories Northwest and Southwest of the Ohio.

The laws respecting light house establishments, require, as a condition of their permanent maintenance, at the expense of the United States, a complete cession of soil and jurisdiction. The cessions of different States having been qualified with a reservation of the right of serving legal process within the ceded jurisdiction, are understood to be inconclusive, as annexing a qualification not consonant, with the terms of the law. I present this circumstance to the view of Congress, that they may judge whether any alteration ought to be made.

As it appears to be conformable with the intention of the "Ordinance for the Government of the Territory of the United States Northwest of the river Ohio," although it is not expressly directed, that the laws of that Terri-

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tory should be laid before Congress, I now transmit to you a copy of such as have been passed, from July to December, 1792, inclusive; being the last which have been received by the Secretary of State.

G. WASHINGTON.

UNITED STATES, January 21, 1794.

The Message and copy of laws referred to were read, and ordered to lie for consideration.

*Ordered*, That Messrs. BRADLEY, LIVERMORE, and BROWN, be a committee to take into consideration the laws passed in the Territory of the United States Northwest of the river Ohio, from July to December, 1792, inclusive, and report thereon to the Senate.

WEDNESDAY, January 22.

The VICE PRESIDENT laid before the Senate sundry Communications from the Secretary for the Department of War, respecting a Treaty of Peace lately concluded by James Seagrove, agent for Indian affairs on behalf of the United States, with the chiefs and warriors on behalf of the Creek Indians.

The papers communicated were read, and ordered to lie on the table.

Agreeably to the order of the day, the Senate took into consideration the motion made the 16th instant, that the doors of the Senate Chamber "should remain open while the Senate shall be sitting in a Legislative and Judiciary capacity."

On motion, it was agreed to postpone the consideration of this subject to this day fortnight.

THURSDAY, January 23.

On motion, by Mr. CABOT, "that a committee be appointed to consider of the expediency of allowing the drawback on the re-exportation of goods, wares, and merchandise, from ports other than those into which they were first imported, and to report a bill for that purpose, if they shall think it proper."

*Ordered*, That this motion lie for consideration.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and  
of the House of Representatives:*

I forward to you extracts from the last advices from our Minister in London, as being connected with communications already made.

G. WASHINGTON.

UNITED STATES, January 22, 1794.

The Message and extracts were read, and ordered to lie for consideration.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for completing and better supporting the Military Establishment of the United States," in which they desire the concurrence of the Senate.

The bill was read the first time, and ordered to a second reading.

The motion made on the 17th instant, that the Secretary of State be directed to lay before the Senate the correspondences which have been had

between the Minister of the United States at the Republic of France and said Republic, and between said Minister and the office of the Secretary of State, was resumed; and

A motion was made to amend the motion, to be read as follows:

"That the President of the United States be requested to lay before the Senate the correspondences which have been had between the Minister of the United States at the Republic of France and said Republic, and between said Minister and the office of the Secretary of State:"

And, after debate, the Senate adjourned.

FRIDAY, January 24.

The Senate resumed the consideration of the motion made on the 17th instant, together with the amendment proposed on the 23d, respecting the correspondences which have been had between the Minister of the United States at the Republic of France and said Republic.

And on motion, to agree to the resolution, amended as follows:

"Resolved, That the President of the United States be requested to lay before the Senate the correspondences which have been had between the Minister of the United States at the Republic of France and said Republic, and between said Minister and the office of the Secretary of State:"

It passed in the affirmative—yeas 13, nays 11, as follows:

YEAS.—Messrs. Bradley, Brown, Burr, Butler, Edwards, Gallatin, Hawkins, Jackson, Langdon, Martin, Monroe, Robinson, and Taylor.

NAYS.—Messrs. Bradford, Cabot, Ellsworth, Foster, Frelinghuysen, Izard, Livermore, Mitchell, Morris, Strong, and Vining.

*Ordered*, That the Secretary lay this resolution before the PRESIDENT OF THE UNITED STATES.

The bill sent from the House of Representatives for concurrence, entitled "An act for completing and better supporting the Military Establishment of the United States," was read the second time.

*Ordered*, That the further consideration of this bill be postponed until Monday next.

MONDAY, January 27.

The Senate resumed the second reading of the bill, sent from the House of Representatives for concurrence, entitled "An act for completing and better supporting the Military Establishment of the United States;" and

*Ordered*, That it be referred to Messrs. ELLSWORTH, LIVERMORE, STRONG, IZARD, and LANGDON, to consider and report thereon to the Senate.

TUESDAY, January 28.

The memorial of Joseph Bloomfield, President of, and in behalf of the Convention of Delegates from the Abolition Societies within the United States, was presented and read, praying Congress to pass a law prohibiting the traffic carried on by the citizens of the United States for the supply of



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slaves to foreign nations, and preventing foreigners from fitting out vessels for the slave trade in the ports of the United States.

The VICE PRESIDENT laid before the Senate a Letter from the Secretary of State, enclosing a translation of the French Act of Navigation.

WEDNESDAY, January 29.

Mr. ELLSWORTH, from the committee appointed to consider the bill, sent from the House of Representatives for concurrence, entitled "An act for completing and better supporting the Military Establishment of the United States," reported amendments, which were agreed to.

*Ordered*, That the further consideration of this bill be postponed.

THURSDAY, January 30.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and  
of the House of Representatives:*

Communications have been made to Congress during the present session, with the intention of affording a full view of the posture of affairs on the Southwestern frontiers. By the information which has lately been laid before Congress, it appeared that the difficulties with the Creeks had been amicably and happily terminated. But it will be perceived with regret, by the papers herewith transmitted, that the tranquility has unfortunately been of short duration, owing to the murder of several friendly Indians, by some lawless white men.

The condition of things in that quarter, requires the serious and immediate consideration of Congress, and the adoption of such wise and vigorous laws as will be competent to the preservation of the national character, and of the peace made under the authority of the United States with the several Indian tribes. Experience demonstrates that the existing legal provisions are entirely inadequate to those great objects.

G. WASHINGTON.

UNITED STATES, January 30, 1794.

The Message and papers therein referred to were read, and ordered to lie for consideration.

The Senate resumed the second reading of the bill, sent from the House of Representatives for concurrence, entitled "An act for completing and better supporting the Military Establishment of the United States;" and, after debate, the further consideration thereof was postponed.

FRIDAY, January 31.

The Senate resumed the second reading of the bill, sent from the House of Representatives for concurrence, entitled "An act for completing and better supporting the Military Establishment of the United States;" and, after debate,

*Resolved*, That this bill do not pass.

*Ordered*, That the Secretary notify the House of Representatives that the Senate do not concur in this bill.

MONDAY, February 3.

The Senate took into consideration the Message of the PRESIDENT OF THE UNITED STATES, of the

30th of December last, respecting certain impediments in the coinage of the precious metals, together with the Report of the Secretary for the Department of State thereon.

*Ordered*, That Messrs. CABOT, IZARD, and ELLSWORTH, be a committee to take into consideration and report on that part of the Message of the PRESIDENT OF THE UNITED STATES, of the 30th of December last, which respects certain impediments to the coinage of the precious metals, together with the Report of the Secretary for the Department of State thereon.

The Senate proceeded to the consideration of the last paragraph of the said Message, and the papers to which it refers; and

*Ordered*, That they be committed to the committee last mentioned, to consider and report thereon to the Senate.

TUESDAY, February 4.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act providing for the relief of such of the inhabitants of Saint Domingo, resident within the United States, as may be found in want of support," in which they desire the concurrence of the Senate.

This bill was read the first time, and ordered to a second reading.

WEDNESDAY, February 5.

The bill sent from the House of Representatives for concurrence, entitled "An act providing for the relief of such of the inhabitants of Saint Domingo, resident within the United States, as may be found in want of support," was read the second time; and, after debate, the further consideration thereof was postponed until to-morrow.

Mr. CABOT reported, from the committee appointed to take into consideration the last clause of the Message of the PRESIDENT OF THE UNITED STATES, of the 30th December, which report was read; and, after debate,

*Ordered*, That it lie on the table.

The Senate resumed the consideration of the motion made the 16th January last, that the doors of the Senate remain open while the Senate shall be sitting in a Legislative and Judiciary capacity.

*Ordered*, That the consideration thereof be postponed to this day fortnight.

THURSDAY, February 6.

Mr. POTTS, from Maryland, attended.

The petition of Jonathan Holton, late a Lieutenant in the Militia of New Hampshire, was presented and read, stating that he was wounded in the battle of Bennington, and disabled from labor, and praying to be reinstated in the list of invalid pensioners.

*Ordered*, That this petition be referred to the Secretary for the Department of War to consider and report thereon to the Senate.

The Senate resumed the second reading of the bill, sent from the House of Representatives for



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concurrence, entitled "An act providing for the relief of such of the inhabitants of Saint Domingo, resident within the United States, as may be found in want of support."

On motion that it be recommitted, for the purpose of further inquiry, it passed in the negative.

And, after agreeing to an amendment, the bill was ordered to a third reading.

The Senate proceeded to the consideration of the report of the committee on the last clause of the Message of the PRESIDENT OF THE UNITED STATES, of the 30th December.

On motion to recommit the report, and that the committee be instructed to bring in a bill for the purposes therein mentioned, it passed in the negative. It was then agreed that the report of the committee be adopted.

Whereupon, it was

*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the payment notified by the President of the United States, in his Message of the 30th of December last, to have been made, be approved; and that the President be authorized to make further advances on the same account, as he may judge expedient, not exceeding in the whole the amount which might be claimed of the United States, on the principles stated in the Message.*

*Ordered, That the Secretary desire the concurrence of the House of Representatives in this resolution.*

#### FRIDAY, February 7.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and  
of the House of Representatives:*

I transmit to you an Act and three Ordinances passed by the Government of the Territory of the United States South of the river Ohio, on the 13th and 21st of March, and the 7th of May, 1793; and also certain Letters from the Minister Plenipotentiary of the French Republic, to the Secretary of State, enclosing despatches from the General and Extraordinary Commission of Gaudaloupe.

G. WASHINGTON.

UNITED STATES, February 7, 1794.

The Message and papers therein referred to were read.

*Ordered, That the Act and three Ordinances, mentioned in the Message, be referred to the committee appointed the 21st of January last, to whom were referred the laws passed in the Territory Northwest of the Ohio, to consider and report thereon to the Senate.*

*Ordered, That the other papers referred to in the Message lie for consideration.*

The Senate proceeded to the third reading of the bill sent from the House of Representatives for concurrence, entitled, "An act providing for the relief of such of the inhabitants of Saint Domingo, resident within the United States, as may be found in want of support." Whereupon,

*Resolved, That this bill pass as amended.*

*Resolved, That the resolution passed yesterday, on the report of the committee appointed to con-*

sider the last paragraph of the Message from the PRESIDENT OF THE UNITED STATES, of the 30th of December last, be reconsidered.

*Ordered, That Messrs. BURR, ELLSWORTH, and KING, be a committee to take into consideration the Message from the PRESIDENT OF THE UNITED STATES of the 30th December, and that the committee be directed to report a bill to carry the same into execution.*

The VICE PRESIDENT laid before the Senate a Letter from the Treasurer of the United States, together with his War Department account; which were read.

*Ordered, That they lie on the table.*

#### MONDAY, February 10.

The VICE PRESIDENT laid before the Senate a Letter from the Secretary of the Department of the Treasury, in reference to the orders of Senate of the 20th January last for a return of sundry statements from that Department; which Letter was read.

Mr. BRADLEY reported from the committee to whom was referred the petition of Conrad Laub and others, respecting the appointment of Mr. GALLATIN to be a Senator of the United States; and the report was read.

*Ordered, That Wednesday next be assigned to take this report into consideration, and that, in the mean time, it be printed for the use of the Senate.*

On motion, that the Senate adopt the following resolution:

*Resolved, That the doors of the Senate be opened, and continue open, during the discussion upon the contested election of ALBERT GALLATIN."*

*Ordered, That this motion lie on the table until to-morrow.*

A message from the House of Representatives informed the Senate, that the House concur in the amendment of the Senate to the bill, entitled "An act providing for the relief of such of the inhabitants of Saint Domingo, resident within the United States, as may be found in want of support."

#### TUESDAY, February 11.

Mr. STRONG, from the committee appointed the 24th of December last, to consider that part of the Speech of the PRESIDENT OF THE UNITED STATES which recommends further provision against offences, reported a bill; which was read the first time, and ordered to a second reading.

A motion was made,

"That the petition of Conrad Laub and others, citizens of Pennsylvania, stating that ALBERT GALLATIN had not been more than eight years a citizen of the United States at the time of his election as a Senator, is sufficient, as well in respect to the competency of the petitioners, as in respect to the matter alleged in the petition, to authorize the Senate to inquire and decide whether the said ALBERT GALLATIN had been a citizen of the United States the term of years required by the Constitution as a qualification to be a Senator of the United States."

*Ordered, That this motion lie until to-morrow.*

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On motion it was

*Ordered*, That the Letter of the Secretary of the Department of the Treasury, communicated yesterday, be referred to MESSRS. GALLATIN, ELLSWORTH, and TAYLOR, to consider and report thereon to the Senate.

Agreeably to the order of the day, the Senate took into consideration the motion made yesterday that the doors of the Senate be opened during the discussion of the contested election of Mr. GALLATIN. Whereupon,

*Resolved*, That the doors of the Senate be opened, and continue open during the discussion upon the contested election of ALBERT GALLATIN.

Mr. BRADLEY reported from the committee to whom was referred the Act and three Ordinances mentioned in the Message from the PRESIDENT OF THE UNITED STATES of the 7th instant, enacted and ordained by the Governor and Judges of the Territory South of the river Ohio, "that Congress do not disapprove the same," and the report was agreed to.

WEDNESDAY, February 12.

On motion, that the consideration of the report of the committee on the petition of Conrad Laub and others, respecting the appointment of Mr. GALLATIN to be a Senator of the United States, be postponed until Monday next; it was passed in the affirmative.

A message from the House of Representatives, informed the Senate, that the House have passed a bill entitled "An act for the relief of Thomas Jenkins and Sons," in which they desire the concurrence of the Senate.

The bill sent from the House of Representatives for concurrence, entitled "An act for the relief of Thomas Jenkins and Sons," was read a first time, and ordered to a second reading.

The bill in addition to "The act for the punishment of certain crimes against the United States," was read the second time; and, after debate, the further consideration of the bill was postponed.

THURSDAY, February 13.

The bill sent from the House of Representatives for concurrence, entitled "An act for the relief of Thomas Jenkins and Sons," was read the second time.

*Ordered*, That this bill pass to a third reading.

The Senate resumed the second reading of the bill, in addition to "The act for the punishment of certain crimes against the United States;" and, after debate, the further consideration thereof was postponed.

Mr. BURR, from the committee to whom was referred the Message from the PRESIDENT OF THE UNITED STATES, of the 30th of December last, reported a bill authorizing and directing the settlement of the accounts of Major General LAFAYETTE; which was read the first time, and ordered to a second reading.

FRIDAY, February 14.

The bill sent from the House of Representatives for concurrence, entitled "An act for the relief of Thomas Jenkins and Sons," was read the third time and passed.

The bill authorizing and directing the settlement of the accounts of Major General LAFAYETTE was read the second time, and, after debate, it was ordered to lie for consideration and inquiry.

The Senate resumed the second reading of the bill in addition to "The act for the punishment of certain crimes against the United States;" and, after debate, the bill was ordered to be committed.

Mr. CABOT, from the committee appointed the third instant, reported a bill in alteration of the act establishing a Mint and regulating the coins of the United States, which was read the first time and ordered to a second reading.

MONDAY, February 17.

The petition of Michael Schmyser, agent for Conrad Laub and others, petitioners against the election of ALBERT GALLATIN, to be a Senator of the United States, was presented and read, praying to be heard by counsel.

*Ordered*, That the prayer of the petition be granted.

The consideration of the report of the committee on the petition of Conrad Laub and others, respecting the election of Mr. GALLATIN to be a Senator of the United States, was resumed, and, after progress, it was ordered that the consideration thereof be postponed until Wednesday next.

The bill in alteration of "The act establishing a Mint and regulating the coins of the United States," was read the second time and ordered to a third reading.

TUESDAY, February 18.

Mr. STRONG, from the committee to whom was recommitted the bill in addition to the act for the punishment of certain crimes against the United States, reported amendments.

*Ordered*, That the bill be printed as the committee have reported it amended.

The bill in alteration of the act establishing a Mint and regulating the coins of the United States was read the third time and passed.

The VICE PRESIDENT laid before the Senate a Letter from the Secretary of the Department of the Treasury, together with fourteen statements of tonnage, for a year ending the 30th of September, 1792, according to the entries of vessels in the United States during that period; which were read and ordered to lie for consideration.

WEDNESDAY, February 19.

JAMES GUNN, from Georgia took his seat in the Senate.

Agreeably to the order of the day, the Senate resumed the consideration of the report of the committee on the petition of Conrad Laub and

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others, respecting the election of Mr. GALLATIN to be a Senator of the United States.

*Ordered*, That the consideration thereof be further postponed, until to-morrow.

The following Message was received from the PRESIDENT OF THE UNITED STATES :

*Gentlemen of the Senate  
and of the House of Representatives :*

I lay before you the copy of a Letter which I have received from the Chief Justice and Associate Justices of the Supreme Court of the United States; and, at their desire, the representation, mentioned in the said Letter, pointing out certain defects in the Judiciary system.

G. WASHINGTON.

UNITED STATES, February 19, 1794.

The Message and representation therein referred to were read.

*Ordered*, That they be referred to Messrs. ELLSWORTH, STRONG, TAYLOR, LIVERMORE, and POTTS, to consider and report thereon to the Senate.

Conformably to the order of the day, the Senate resumed the consideration of the motion, made on the 16th of January last, that the doors of the Senate Chamber remain open while the Senate shall be sitting in a Legislative and Judiciary capacity.

On motion, by Mr. MARTIN, that the question be now taken on the propositions generally,

A motion was made for the previous question, to wit: Shall the question be now put on the following preliminary resolutions?

*Resolved*, That, in all Representative Governments, the Representatives are responsible for their conduct to their constituents, who are entitled to such information, that a discrimination and just estimate be made thereof.

*Resolved*, That the Senate of the United States, being the Representatives of the Sovereignities of the individual States, whose basis is the people, owe equal responsibility to the powers by which they are appointed, as if that body were derived immediately from the people, and that all questions and debates arising thereupon in their Legislative and Judiciary capacity, ought to be public.

*Resolved*, That the mode adopted by the Senate of publishing their journals, and extracts from them, in newspapers, is not adequate to the purpose of circulating satisfactory information. While the principles and designs of the individual members are withheld from public view, responsibility is destroyed, which, on the publicity of their deliberations, would be restored; the Constitutional powers of the Senate become more important, in being more influential over the other branch of the Legislature; abuse of power, mal administration of office, more easily detected and corrected; jealousies, rising in the public mind from secret legislation, prevented; and greater confidence placed by our fellow-citizens in the National Government, by which their lives, liberties, and properties, are to be secured and protected:

It passed in the negative.

On motion to postpone the main question to the next session of Congress, to wit:

*Resolved*, That it be a standing rule that the doors of the Senate Chamber remain open while the Senate shall be sitting in a Legislative and Judiciary capacity, except on such occasions as in their judgment may re-

quire secrecy; and that this rule commence on — day of —:

It passed in the affirmative—yeas 14, nays 13, as follows:

YEAS.—Messrs. Bradford, Bradley, Cabot, Ellsworth, Foster, Frelinghuysen, Izard, Langdon, Livermore, Mitchell, Morris, Rutherford, Strong, and Vining.

NAYS.—Messrs. Brown, Burr, Butler, Edwards, Gallatin, Gunn, Hawkins, Jackson, King, Martin, Monroe, Potts, and Taylor.

The Senate resumed the second reading of the bill, authorizing and directing the settlement of the accounts of Major General LAFAYETTE; and having amended the same, the bill was ordered to a third reading.

On motion to reconsider the following motion, to wit:

*Resolved*, That it be a standing rule that the doors of the Senate Chamber remain open while the Senate shall be sitting in a Legislative and Judiciary capacity, except on such occasions as, in their judgment, may require secrecy; and that this rule commence on — day of —:

It passed in the affirmative—yeas 17, nays 10, as follows:

YEAS.—Messrs. Bradley, Brown, Burr, Butler, Edwards, Foster, Gallatin, Gunn, Hawkins, Jackson, King, Langdon, Livermore, Martin, Monroe, Potts, and Taylor.

NAYS.—Messrs. Bradford, Cabot, Ellsworth, Frelinghuysen, Izard, Mitchell, Morris, Rutherford, Strong, and Vining.

A motion was made to amend the motion last reconsidered, as follows:

*Resolved*, That, after the end of the present session of Congress, and, so soon as suitable galleries shall be provided for the Senate Chamber, the said galleries shall be permitted to be opened every morning, so long as the Senate shall be engaged in their Legislative capacity, unless in such cases as may in the opinion of the Senate require secrecy, after which the said galleries shall be closed:

And, after debate, the Senate adjourned.

THURSDAY, February 20.

The Senate resumed the consideration of the motion made yesterday, to amend the motion then reconsidered, respecting the opening the doors of the Senate Chamber whilst sitting in a Legislative capacity.

On motion to commit the motion for amendment, it passed in the negative.

On motion, that the amendment be agreed to, it passed in the affirmative—yeas 18, nays 9, as follows:

YEAS.—Messrs. Bradley, Brown, Burr, Butler, Edwards, Ellsworth, Foster, Gunn, Hawkins, Jackson, King, Langdon, Livermore, Martin, Monroe, Potts, Taylor, and Vining.

NAYS.—Messrs. Bradford, Cabot, Frelinghuysen, Gallatin, Izard, Mitchell, Morris, Rutherford, and Strong.

On motion to adopt the resolution, amended as follows:



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"Resolved, That, after the end of the present session of Congress, and so soon as suitable galleries shall be provided for the Senate Chamber, the said galleries shall be permitted to be opened every morning, so long as the Senate shall be engaged in their Legislative capacity, unless in such cases as may, in the opinion of the Senate, require secrecy, after which the said galleries shall be closed."

It passed in the affirmative—yeas 19, nays 8, as follows:

YEAS.—Messrs. Bradley, Brown, Burr, Butler, Edwards, Ellsworth, Foster, Gallatin, Gunn, Hawkins, Jackson, King, Langdon, Livermore, Martin, Monroe, Potts, Taylor, and Vining.

NAYS.—Messrs. Bradford, Cabot, Frelinghuysen, Izard, Mitchell, Morris, Rutherford, and Strong.

A message from the House of Representatives informed the Senate, that the House have passed a bill, entitled "An act for the remission of the duties arising on the tonnage of sundry French vessels which have taken refuge in the ports of the United States," in which they desire the concurrence of the Senate.

The bill last mentioned was read the first time, and ordered to a second reading.

Resolved, That, on a motion made and seconded to shut the doors of the Senate, on the discussion of any business which may, in the opinion of a member, require secrecy, the President shall direct the gallery to be cleared; and that, during the discussion of such motion, the doors shall remain shut.

Ordered, That the second reading of the bill in addition to the act for the punishment of certain crimes against the United States, as reported to be amended by the committee, be the order of the day for Tuesday next.

#### CONTESTED ELECTION.

Agreeably to the order of the day, the Senate resumed the consideration of the report of the committee on the petition of Conrad Laub, and others, respecting the election of Mr. GALLATIN to be a Senator of the United States.

The Report of the Committee states the evidence, and concludes with an opinion, that to controvert the allegations set forth in the petition against Mr. G., it lays with him to prove his citizenship.

Accordingly, Mr. G. presented a written statement of facts, which the PRESIDENT of the Senate read. It contained a narrative of several transactions from the time of Mr. G.'s arrival in the Province of Maine, or Massachusetts, about thirteen years ago. Of his having contributed by money and his own services as a volunteer, in the cause of the Revolution. Of his having taken oaths of allegiance and purchased lands in that State, and also in the State of Virginia. In the back parts of the last mentioned State, he had formed an interesting settlement, and had been extremely useful in bringing settlers from Europe. The dates of those transactions and times of his arrival in Pennsylvania, and of being sent to the State Convention,

are also recited, up to the time of his being chosen one of their Representatives in the Senate of the United States.

After the PRESIDENT had done reading the statement of facts, Mr. G. addressed the Senate, by observing, that he felt himself rather in an awkward predicament, not knowing whether the course for the prosecutors or himself were the proper persons to speak the first, as this preliminary was not yet laid down by the Senate, neither had he provided any counsel. He should have supposed himself in the situation of defendant, were it not that the weight of proving the affirmative in regard to citizenship had been laid on him, under which predicament it might perhaps be necessary for him to begin, and after the counsel for the petitioners had spoken, that he should then be allowed to close the arguments.

Mr. LIVERMORE was of opinion, that the sitting member should begin the debate, as the *onus probandi* lay with him.

The counsel for the petitioners, Mr. LEWIS, rose. He was attended by Mr. Schmyser, one of the members of the Senate of Pennsylvania, who, we understand, manages the prosecution on the part of the petitioners. Mr. L. hoped he would be permitted to say a few words in the early stage of the business, in regard to the manner of conducting it. He recapitulated sundry offices and posts of honor that had been conferred on him, from which he humbly presumed he had gathered much experience, and particularly in cases of Contested Elections. He would, therefore, beg leave of the honorable Senate, to offer an observation before they should determine on the mode of conducting the trial. When the question for postponement, which was debated the other day, was before them, the sitting member did then consider himself as defendant, and for an hour had fought phantoms of his own imagination, but now he has changed his ground, and desires to have the privileges which belong to the petitioners only, namely, the right of opening the prosecution, and afterwards concluding the arguments.

Mr. GALLATIN submitted to the decision of the Senate, and said he did not wish to contend for mere matters of form.

Mr. MARTIN, from N. Carolina, thought it immaterial who began or concluded, if in the end the Senate should be enabled to arrive at a just degree of information.

Mr. JACKSON, from Georgia, made some observations on the manner of conducting the business. He thought it would be incumbent on the counsel for the petitioners to prove that Mr. GALLATIN was not a citizen, &c.

Mr. KING, from New York, and some other gentleman of the Senate, said a few more words on the motion; it was agreed that the sitting member should begin.

Mr. GALLATIN accordingly rose and recapitulated the facts stated in the written paper which he had presented to the PRESIDENT, commenting on each of them as he proceeded. He proved that he had been an inhabitant of the United States for thirteen years, and was one before the Peace of

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1783, and before the Confederation. He quoted the laws previous thereto respecting aliens, and also the British statutes, and he maintained that they were all done away by the Revolution. He conceived himself a citizen in common with the other citizens of the United States, from the time of his first qualifying after his arrival and attachment to the country. He concluded by saying, he would reserve the remainder of his defence until after he should hear the counsel on behalf of the petitioners.

Mr. Lewis commenced his speech by observing, that he appeared there on behalf of Conrad Laub, and other respectable men, who complained of the unconstitutionality of admitting Mr. GALLATIN to a seat in the Senate. He was glad to find, by the gentleman's expressions, that the ground of debate had been narrowed into so small a compass, and he would therefore take him up from the argument where he had left off speaking, that of his being a citizen in common of the United States, from the time of his qualifying in Massachusetts or Virginia. But in Virginia two oaths are required, and they must be taken in a Court, not before a Magistrate, to entitle a man to citizenship. He must also be possessed of a certain quantity of property and be a resident for two years. It appears Mr. G. did not remain in Virginia more than two months. [Here Mr. Lewis read the law of Virginia of the 20th October, 1783.] On this law Mr. L. argued that Mr. G. had not gone through the necessary qualifications to entitle him to citizenship there; and he observed, that he admired the gentleman's candor in not insisting on it here. In this State he had certainly not qualified himself agreeably to the law. Under these circumstances, Mr. L. for his part could never admit of the gentleman's right to citizenship so far back as to entitle him to the suffrage of a vote for a seat in the Senate, &c.

The mischievous consequences of permitting such innovations he represented in strong terms; and he called to the recollection of the Senate the conduct of ancient and modern Governments on this question. One of the ancient Republics made it death for an alien to intermeddle in their politics. The sentiments of antiquity, and those of men in modern days, proved the justice of these conclusions.

With regard to the arguments of the gentleman respecting his being entitled to be a citizen of the Union, or of any individual State of it, because he had qualified himself to be a citizen of one of them, Mr. L. said, was a mere bubble, for surely the gentleman was not one of the mass of citizens at the accomplishment of Independence.

The doctrine of the old law, which the gentleman says was done away by the Revolution, in respect to aliens, may have been so with regard to the British king; it was still, however, virtually in force against the gentleman. But supposing it to be done away, how do the Constitutions of the different States stand on this head? Is it not implied by all of them, that certain oaths, residence, and property, make the requisites to form citizenship? In Massachusetts, a foreigner is not a citizen without he complies with those terms. [Here

he quoted p. 70 of the small volume of the Laws of Massachusetts. He also cited the act in favor of John Jarvis and others; also, p. 104 of the same book, and p. 191 and 192.] From these he maintained, that no such wild idea was ever contemplated by either the law of Massachusetts or Virginia, as to admit foreigners or persons from other States to citizenship, immediately on their entrance within their limits.

The situation of the sitting member, with respect to the Constitution and laws of Pennsylvania, he had little doubt was similar to what he had mentioned in regard to the other States, although he would not assert it as a fact. [He read the 42d section, and also in p. 43 of the Law of Pennsylvania, 13th of March, 1789, a proviso which contains some precautions requiring records to be kept by the Master of the Rolls of the persons admitted to citizenship.] The same principle pervades all the States as well as it does the Constitution of the United States. The absurdity of applying it in any other sense, was severely pictured by Mr. L., and to admit the idea advanced by the sitting member, was as inadmissible as it was novel. In support of what he wished to impress on the minds of the Senate, Mr. L. quoted the 1st vol. of the Journals of Congress in 1774 and 1775, p. 28 and 29. He then recurred to *Blackstone*, vol. 1. p. 63, 64, and 69; also 73 and 79.

It was not his intention to quote the Parliamentary Laws of England in support of any thing, but such parts of their Common Law as could be got over. That Common Law of England which was imported by our ancestors, and handed down to them by the People, not the Parliament. The People had made the Common Law, from time to time. The Saxons, Normans, &c., were all concerned in making and improving it, until it had finally reached that degree of perfection in which it was given to us by our ancestors, and it was founded in wisdom and justice.

Mr. L. next quoted, first *Blackstone*, 402, which was one of the British laws that had never been admitted in this country, and which, he hoped, never would, viz: that wherein the distinction is drawn between the Commoner and the Peer, an oath being required of the Commoner, upon all occasions, and no more than "upon my honor," from a Peer, except in giving evidence in civil or criminal trials.

Mr. L. concluded by saying that the difficulties which stood between Mr. GALLATIN and his seat, were insurmountable and could not be removed without showing a law of Massachusetts, Virginia, &c., repealing those laws in regard to the qualification of citizens, which he had mentioned, but which repeal he was certain did not exist. He therefore stated, that to insist upon the gentleman's right to a seat, was both novel and absurd. These were his opinions, which he had given in a perfectly extempore way, not having been allowed time, nor expecting to meet the subject on the new ground which it had this day taken in the Senate.

Mr. GALLATIN said, he would pledge himself to the Senate, to prove that the grounds of his argu-



ments and his construction of the Confederation and laws of the States, was neither novel nor absurd, except in Mr. L.'s construction of them, but had been admitted in many instances. However, as the Common Law of England was now introduced by Mr. L., which was new ground to him, and as the hour of adjournment was nearly approaching, he would beg leave to make his reply to-morrow.

On motion, the further consideration of this subject was postponed until to-morrow.

FRIDAY, February 21.

The bill sent from the House of Representatives for concurrence, entitled "An act for the remission of the duties arising on the tonnage of sundry French vessels which have taken refuge in the ports of the United States;" was read the second time and referred to Messrs. CABOT, BURR, and LANGDON, to consider and report thereon to the Senate.

The VICE PRESIDENT laid before the Senate a communication from the Secretary for the Department of War, stating certain defects in the act passed at the last session of Congress, entitled "An act to regulate the claims to Invalid Pensions;" which was read and ordered to lie for consideration.

#### CONTESTED ELECTION.

Agreeably to the order of the day the Senate resumed the consideration of the report of the committee on the petition of Conrad Laub, and others, respecting the election of Mr. GALLATIN to be a Senator of the United States.

Mr. GALLATIN commenced his defence by laying down the principles on which he intended to argue. His was a very serious situation, for a person to be placed in, who had been so long in America, and who had mingled with the inhabitants in the common cause, that he should afterwards be called before so solemn a tribunal, with an intention to wrest from him his right of citizenship. He confessed, that on this occasion his feelings were deeply interested, particularly as the manner of the counsel for the prosecutors was so personal, and went not only to deny him a seat in the Senate of the United States, but even to contest his citizenship, and denounce him as being yet an alien.

This was a matter of consequence to many thousands as well as himself, who have long considered themselves in possession of all the privilege of denizens, and yet may be deprived of their rights, if the doctrines of the counsel for the prosecutors should obtain any sanction from the body who were now to judge of its merits.

Mr. G. entered into a series of observations on the various points of law, &c., which had been adduced by Mr. LEWIS, and he particularly remarked, that the Common Law of England was entirely inapplicable to the subject under consideration. He read the laws of Virginia respecting naturalization, &c., from which he insisted that he had long since become a citizen of the United

States. He also quoted 1st *Blackstone*, p. 374, and *Viner's Abridgment*, vol. ii. p. 266, respecting the different acceptations of denizen and citizen, and he went back so far as the British statutes in 1740, to show the intention of the old Government was to naturalize all persons who would go and reside in the Colonies. He next mentioned the act of Pennsylvania, of 31st of August, 1778, and commented on the principles generally entertained by most writers on the subjects of allegiance and citizenship. *Blackstone*, 266, &c.

An alien is a man born out of the allegiance of the King. But allegiance in England is not an allegiance to the country or to society, as it is understood in this country.

In order to explain the principle of reciprocity, he observed, that when the two crowns of England and Scotland were united under James, the inhabitants of Scotland became naturalized in England, as if they had been natural-born subjects of that country. The allegiance in Britain was personal to the King, and it has there this remarkable quality, that by the British laws allegiance can never be shaken off.

This country, before the Revolution, owed allegiance to the King, but that was destroyed by the Declaration of Independence, and then the inhabitants of the States became mutually citizens of every State reciprocally; and they continued so until such time as the States made laws of their own afterwards respecting naturalization.

As soon as separate Governments existed, allegiance was due to each, and here the allegiance was a reality, it was to the Government and to society, whereas in Britain it is merely fictitious, being only to one man.

Every man who took an active part in the American Revolution, was a citizen according to the great laws of reason and of nature, and when afterwards positive laws were made, they were retrospective in regard to persons under this predicament, nor did those posterior laws invalidate the rights which they enjoy under the Confederation.

Mr. G. here mentioned his having been an inhabitant of Massachusetts, before October, 1780, and he also observed, that the law passed in that State was decisive against the Common Law of England.

In quoting the laws of Massachusetts, which were passed in 1785, and afterwards, for naturalizing John Gardner, and James Martin, he remarked that they clearly implied that even a natural born subject, who had not acted in the Revolution, and an absentee, was not entitled to citizenship. He likewise took notice of the case of Mr. WILLIAM SMITH, of South Carolina, against whose election as a Representative in Congress, a petition was presented by Doctor Ramsey, although the decision of South Carolina on that subject was exactly the reverse of Massachusetts.

In speaking of the difficulties that occurred in explaining the terms citizen and alien, he ran over a number of cases, and asked whether if a person had arrived in the United States during the war, from Nova-Scotia, or elsewhere, and had taken an



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active part against the enemy, would he not be better entitled to the right of a citizen, than even those who afterwards subscribed to the acts? The counsel for the prosecutors had admitted that a person who had been one of the mass of the people, at the Declaration of Independence, was a citizen. On the same principle, until a law passes to disprove that a man who was active in the Revolution previous to the Treaty of Peace, was a citizen, he must be one *ipso facto*.

Mr. G. next read a quotation from the 1st. vol. of *Woodson*, p. 382, an English writer, who acknowledged that all persons were aliens at the recognition of Independence, and that is a more liberal construction than the counsel for the petitioners would admit of, for by his construction, our sailors, &c., ought to be naturalized, lest they be alarmed by the British.

The new Constitution of the United States requires certain qualifications for members of Congress, &c., but it does not deprive persons of their rights who were actually citizens before this Constitution was ratified that made the States the United States. They were United by consent before, and consequently he was one of the people before the United States existed.

He went on to read from the Constitution of Massachusetts, and several other States, sundry clauses in support of his reasoning, and recapitulated the several heads of Mr. L.'s arguments, to each of which he replied.

Mr. G. said, that Mr. Lewis was unfortunate in producing the law of Pennsylvania, for, by proving too much, he had proved nothing, for the 42d sec. of the Constitution is retrospective, and by acknowledging the Articles of Confederation to be the supreme law of the land, persons who were reciprocally citizens before, are still left in full possession of the right.

So far from any dangerous consequences arising on my construction of citizenship, said he, I think it must be evident, that there is more danger and absurdity in the counsel's own constructions. For, in remarking on the policy of nations, we find even slaves have been enfranchised by the great Republics in times of common danger. The policy of America should be to make citizenship as easy as possible, for the purpose of encouraging population; even during the British dominion that was a principle laid down, and afterwards it was attempted to be varied; it is made one of the principal subjects of complaint in the Declaration of Independence, where it is expressly said, that the King endeavored to prevent the population of these States, by having laws made to obstruct the naturalization of foreigners.

If there was any dangerous consequences to be apprehended from the former regulations on this subject, they are all remedied by the new Constitution.

Therefore, no ill consequence or absurdity can follow. The author of the *Federalist* supports this principle in vol. ii, p. 54, for he says, that it is a construction scarcely avoidable, that citizens of each of the States are mutually so in all of them.

The first words in the Constitution, "We, the

People," furnished another argument in support of Mr. G.'s principles, which he turned to great advantage, still drawing an inference to show that Mr. L.'s construction of the subject was most liable to difficulties and to mischievous consequences.

He concluded by observing, that if there was any disfranchising clauses in the Constitution of the United States, tending to deprive citizens of antecedent rights, all such clauses must be construed favorably, and were evidently on his side. With regard to a sentence that had been added, by the advice of counsel, to the affidavit of Pelatiah Webster, he made some remarks which tended to establish his own personal character, which he trusted would be found, when traced back to his nativity, to stand the test; and that his right to a seat in the Senate would also stand upon an equally just foundation.

Mr. Lewis denied ever having seen the affidavit of Mr. Webster, until it was shown him at the time the examination before the Committee was going forward.

Mr. GALLATIN recriminated, that the clause of which he took notice, was not in the affidavit when Mr. Webster brought it to the Committee, and that he had permitted it to be added with great reluctance. It was only the recital of a few words which passed between Mr. G. and Mr. W. in jest, some years since, wherein Mr. G. had ironically said his name was Sidney, probably alluding to some essays that had appeared in the newspapers under that signature, which have been generally attributed to the pen of another gentleman in this State.

Mr. JACKSON, in order to bring the merits of the subject directly before the Senate, said he would move a resolution, that would have that effect; but upon Mr. LEWIS's observing, that he had not yet closed his arguments, and at the instance of Mr. BUTLER, from South Carolina, who said he would second Mr. JACKSON's motion hereafter, it was withdrawn for the present.

*Ordered*, That the further consideration thereof be postponed until to-morrow.

#### SATURDAY, February 22.

The VICE PRESIDENT laid before the Senate a Report from the Secretary for the Department of Treasury, on the expediency of erecting a light house on Cape Hatteras, in the State of North Carolina, together with sundry papers therein referred to; which were read.

*Ordered*, That this report, and the papers therein referred to, be committed to Messrs. MARTIN, LANGDON, and KING, to consider and report thereon to the Senate.

#### CONTESTED ELECTION.

The Senate resumed the consideration of the report of the committee on the petition of Conrad Laub, and others, respecting the election of Mr. GALLATIN to be a Senator of the United States.

The greater part of the day was taken up by Mr. Lewis's pleadings, wherein he entered into a very

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extensive field of reasoning, and quoted a great number of authorities, in support of the principles on which he had set out last Thursday, and to prove that in the true sense of the Constitution of the United States, as well as of that of the State of Pennsylvania, Mr. GALLATIN was not duly qualified for the office of a Senator, and therefore, he trusted that the honorable Senate, upon mature reflection, would vacate his seat.

Mr. GALLATIN closed his defence in a short speech, wherein he quoted *Vattel*, p. 167, and explained the 42d section of the Constitution of Pennsylvania, the liberal construction of which, he said, was in his favor, and the construction contended for by the counsel, absurd. He finished by reading a passage from *Lord Bacon's* works, to show that where there is any doubt in the laws, it should operate in favor of the defendant, and he accordingly made no doubt but that the Senate would validate his election.

*Ordered*, That the further consideration of the subject be postponed until Monday next.

A motion was made as follows :

"*Resolved*, That ALBERT GALLATIN, returned to this House as a member for the State of Pennsylvania, is duly qualified for, and elected to, a seat in the Senate of the United States."

*Ordered*, That the consideration of this motion be postponed until Monday next, and that a number of copies of the fourth article of the First Confederation of the United States be printed for the use of the Senate.

#### MONDAY, February 24.

The Senate resumed the consideration of the motion made the twenty-second instant, on the report of the committee on the petition of Conrad Laub, and others, respecting the election of Mr. GALLATIN to be a Senator of the United States ; and, after progress,

*Ordered*, That the further consideration thereof be postponed until to-morrow.

A message from the House of Representatives informed the Senate, that the House have passed a bill, entitled "An act making Appropriations for the support of Government for the year one thousand seven hundred and ninety-four," in which they desire the concurrence of the Senate.

The following Message was received from the PRESIDENT OF THE UNITED STATES :

*Gentlemen of the Senate, and  
of the House of Representatives :*

The extracts which I now lay before you, from a Letter of our Minister at London, are supplementary to some of my past communications, and it will appear to be of a confidential nature.

I also transmit to you copies of a Letter from the Secretary of State to the Minister Plenipotentiary of his Britannic Majesty, and of the answer thereto, upon the subject of the Treaty between the United States and Great Britain ; together with the copy of a Letter from Messrs. Carmichael and Short, relative to our affairs with Spain, which Letter is connected with a former confidential Message.

G. WASHINGTON.

UNITED STATES, February 24, 1794.

The Message and papers therein referred to were read, and ordered to lie for consideration.

#### TUESDAY, February 25.

The bill, sent from the House of Representatives for concurrence, entitled "An act making Appropriations for the support of Government for the year one thousand seven hundred and ninety-four," was read the first time and ordered to a second reading.

The Senate resumed the consideration of the motion made the twenty-second instant, on the report of the committee on the petition of Conrad Laub, and others, respecting the election of Mr. GALLATIN to be a Senator of the United States ; and, after progress,

*Ordered*, That the further consideration thereof be postponed until to-morrow.

On motion it was agreed that the second reading of the bill, in addition to the act for the punishment of certain crimes against the United States, assigned as the order of this day, be further postponed.

#### WEDNESDAY, February 26.

The Senate resumed the consideration of the motion, made the twenty-second instant, on the report of the committee on the petition of Conrad Laub, and others, respecting the election of Mr. GALLATIN to be a Senator of the United States ; and, after progress,

*Ordered*, That the further consideration thereof be postponed until to-morrow.

The following Message was received from the PRESIDENT OF THE UNITED STATES, and read :

*Gentlemen of the Senate :*

I have caused the correspondence, which is the subject of your resolution of the 24th day of January last, to be laid before me. After an examination of it, I directed copies and translations to be made ; except in those particulars which, in my judgment, for public considerations, ought not to be communicated.

These copies and translations are now transmitted to the Senate ; but the nature of them manifest the propriety of their being received as confidential.

G. WASHINGTON.

UNITED STATES, February 26, 1794.

*Ordered*, That the Message and papers therein referred to lie for consideration.

The bill, sent from the House of Representatives, for concurrence, entitled "An act making Appropriations for the support of Government for the year one thousand seven hundred and ninety-four," was read the second time, and the further consideration of the bill was postponed.

#### THURSDAY, February 27.

*Ordered*, That the bill from the House of Representatives for concurrence, entitled "An act making Appropriations for the support of Government for the year one thousand seven hundred and ninety-four," be referred to Messrs. CABOT, FRELINGHUYSEN, and LANGDON, to consider and report thereon to the Senate.



FEBRUARY, 1794.]

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[SENATE.]

The Senate resumed the consideration of the motion, made the twenty-second instant, on the report of the committee on the petition of Conrad Laub, and others, respecting the election of Mr. GALLATIN to be a Senator of the United States; and, after progress,

*Ordered*, That the further consideration thereof be postponed until to-morrow.

FRIDAY, February 28.

The Senate resumed the consideration of the 22d instant, on the report of the committee on the petition of Conrad Laub and others, respecting the election of Mr. GALLATIN to be a Senator of the United States.

And, on the question to agree to the motion, as follows:

*Resolved*, That ALBERT GALLATIN, returned to this House as a member for the State of Pennsylvania, is duly qualified for, and elected to, a seat in the Senate of the United States:

It passed in the negative—yeas 12, nays 14, as follows:

YEAS.—Messrs. Bradley, Brown, Burr, Butler, Edwards, Gunn, Jackson, Langdon, Martin, Monroe, Robinson, and Taylor.

NAYS.—Messrs. Bradford, Cabot, Ellsworth, Foster, Frelinghuysen, Hawkins, Izard, King, Livermore, Mitchell, Morris, Potts, Strong, and Vining.

On motion, that it be

*Resolved*, That the election of ALBERT GALLATIN to be a Senator of the United States was void, he not having been a citizen of the United States the term of years required as a qualification to be a Senator of the United States:

A motion was made to divide the question at the word "void;" and,

On motion to agree to the first paragraph of the motion so divided, it passed in the affirmative—yeas 14, nays 12, as follows:

YEAS.—Messrs. Bradford, Cabot, Ellsworth, Foster, Frelinghuysen, Hawkins, Izard, King, Livermore, Mitchell, Morris, Potts, Strong, and Vining.

NAYS.—Messrs. Bradley, Brown, Burr, Butler, Edwards, Gunn, Jackson, Langdon, Martin, Monroe, Robinson, and Taylor.

On motion to adopt the resolution as follows:

*Resolved*, That the election of ALBERT GALLATIN to be a Senator of the United States was void, he not having been a citizen of the United States, the term of years required as a qualification to be a Senator of the United States:

It passed in the affirmative—yeas 14, nays 12, as follows:

YEAS.—Messrs. Bradford, Cabot, Ellsworth, Foster, Frelinghuysen, Hawkins, Izard, King, Livermore, Mitchell, Morris, Potts, Strong, and Vining.

NAYS.—Messrs. Bradley, Brown, Burr, Butler, Edwards, Gunn, Jackson, Langdon, Martin, Monroe, Robinson, and Taylor.

*Resolved*, That an attested copy of the resolution of the Senate, declaring the election of AL-

BERT GALLATIN to be void, be transmitted by the President of the Senate to the Executive of the Commonwealth of Pennsylvania.

The report of the committee on the petition of Conrad Laub and others, above referred to, and made on the 10th instant, is as follows:

"The Committee of Elections, to whom was referred the petition of Conrad Laub and others, against the election of the Honorable ALBERT GALLATIN as a Senator of the United States for the State of Pennsylvania, report:

"That they have had the same under consideration, and, having given due notice, as well the petitioners, by their agent, Michael Schuyser, as the said Mr. GALLATIN appeared before them, and, on the part of the petitioners, the following evidence was produced, to wit:

"Robert Morris, Esq., being duly sworn, deposeseth: That, during the war, two of his sons went to Geneva for their education, and at that place they became acquainted with some of the friends of Mr. Albert Gallatin, who had gone for America, and they, being solicitous to hear of his safety, desired Mr. Morris's sons to write to their father, to make inquiry and give the information he should obtain. That, frequently afterwards, he received letters for Mr. Gallatin from Europe, which he always supposed to come from the friends of Mr. Gallatin, in Geneva. He supplied Mr. Gallatin with money for a bill upon London, and there supposed the funds to pay the same were remitted from Geneva. Mr. Morris paid Mr. Gallatin about one thousand guineas, by order of Messrs. \_\_\_\_\_ & Co., bankers in Paris, believing always that they were reimbursed from Geneva. Mr. Morris does not recollect dates, not having for a long while seen any of the letters that passed on the subject; he does not know the place of Mr. Gallatin's nativity, but, from the general course of the circumstances which came under his observation, he always did suppose he was born in Geneva."

"Sworn to, and subscribed, January 22, 1794."

"Nathaniel Cabot Higginson, Esq., being duly sworn, deposeseth: That he does not know directly anything of Mr. Gallatin's being a foreigner or native; that he recollects knowing him by reputation and sight at Boston, in one of the years 1781, 1782, or 1783, and that he was generally reputed to be a foreigner. This deponent believes that Mr. Gallatin then taught the French language, and did not speak the English with facility; and further recollects that Mr. Gallatin was resident there or thereabouts a considerable time. This deponent further says, that he never had any conversation with Mr. Gallatin, but founds his belief, with respect to Mr. Gallatin's not speaking the English with facility, on the information received from others.

"Sworn to, and subscribed, January 22, 1794."

"Mr. John Breakbill, being duly sworn, testifies: That, last Winter, being a member of the Legislature of Pennsylvania, previous to the election of Senator for the State of Pennsylvania, I heard Mr. Gallatin say his citizenship would not admit his being a Senator; what were his reasons for making the declaration I cannot say; I took it, he did not wish to be elected. This declaration by Mr. Gallatin was made at a meeting of a number of members of the Pennsylvania Legislature, held for the purpose of agreeing who should be set up as a candidate. The deponent further says he does not recollect Mr. Gallatin's assigning any other reason for his backwardness to serve as a Senator, than the want of citizenship.

"Sworn to, and subscribed, January 22, 1794."

"Henry Kammerer, Esq., being duly sworn, testifies:



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That last Winter, being a member of the Legislature of Pennsylvania, and previous to the election of Senator for the said State, at a meeting of a number of the members of the State Legislature, to agree upon a candidate to fill said office, I heard Mr. Gallatin say, when his name was proposed, 'As for my name, it is out of the question: I have not been a citizen long enough to entitle me to serve in that station.' That, at a second meeting for the same purpose, Mr. Gallatin was again proposed as a proper person for a candidate, and then the deponent understood (not from Mr. Gallatin, but from some of the members of Assembly then present,) that the doubt about his citizenship was then put to rights; and then it was almost unanimously agreed to put up Mr. Gallatin's name. That, on the morning succeeding Mr. Gallatin's election, the deponent heard it observed, that, notwithstanding Mr. Gallatin's election, he could not take his seat, in consequence of his declaration that he had not been long enough a citizen. That he, the same day, mentioned this to Mr. Gallatin, who said that he had made this declaration under a mistaken idea that it was necessary for him to have been nine years a citizen of Pennsylvania, but that, upon examining the Constitution, he had found that to have been nine years a citizen of the United States was sufficient, and that he had been above nine years a citizen of the United States, or words to that effect.

"Sworn to, and subscribed, January 22, 1794."

"Pelatiah Webster, being duly qualified, testifies: That, eleven years ago last Summer, I let my house in Philadelphia to Mary Linn, who proposed to take lodgers; I reserved apartments for myself, and boarded with her. Soon after, Mr. Savery and Mr. Gallatin took lodgings of her, and continued a number of months there. Mr. Savery spoke no English; Mr. Gallatin spoke good English, and served as interpreter for him. They appeared to be well bred gentlemen, and their conduct was agreeable and conciliating; and they soon gained the esteem and respect of the family. I do not know that they ever declared their country, but we all supposed they were French, and, of course, the people, customs, and country of France, often made the topic of fireside chat. In one of these transient conversations, Mr. Gallatin took occasion to say that his knowledge of French affairs was not very perfect, for he was not a native of France, nor had ever resided long in that country, but was from Geneva. No one interesting circumstance made any further inquiry necessary, nor do I recollect that he made any more explication of the subject.

"N. B. Mr. Gallatin once said that his original name was not Gallatin, but I think he said it was Sidney, but this conversation was in drollery, and not in earnest, as I conceived at the time of speaking from the manner and air of his speaking thereon.

"Sworn to, and subscribed, January 28, 1794."

"Mr. John Smilie, member of the House of Representatives of the United States, being sworn, saith, that at a meeting of sundry members of the Legislature of Pennsylvania, previous to Mr. Gallatin's election as a Senator of the United States, that gentleman was mentioned as a proper person to fill the said office; at which time Mr. Gallatin started some doubt respecting his being qualified, but in what words the deponent does not recollect.

That the deponent did not understand upon what the doubt was founded, though he thinks, from something said by Mr. Gallatin, that it related to Mr. Gallatin's citizenship, for, as the deponent conceived the conversation proceeded from that kind of modesty which

gentlemen usually feel upon having their names proposed upon such occasions, he did not pay much attention to it: and that his reason for forming this opinion was, his having frequently observed gentlemen to make excuses in similar situations, and from his knowledge of Mr. Gallatin's modesty of disposition. When being asked, whether he ever heard Mr. Gallatin say that he had not been a citizen of the United States nine years previous to his election, the deponent replies, he never did. Upon being asked by Mr. Lewis, counsel for the petitioners, what he had ever heard Mr. Gallatin say touching his citizenship, the deponent replies, that a considerable time subsequent to Mr. Gallatin's election, Mr. Gallatin, in conversations with the deponent, expressed an opinion, that he was qualified with respect to citizenship. What else did you ever hear Mr. Gallatin say with respect to his citizenship? The deponent answers, that he recollects having heard him say something with respect to the laws of Massachusetts not requiring an oath of allegiance, at the time of his giving his opinion as aforesaid. Did you ever hear Mr. Gallatin say he was born in Europe? The deponent replies, that he does not recollect Mr. Gallatin's saying that he was born in Europe, but that he has heard Mr. Gallatin speak of himself as a Genevan, mention his family in Geneva, and in conversations with him hath always understood him to be of Geneva. Did you ever hear Mr. Gallatin mention the time of his coming into America? He replies, that he thinks Mr. Gallatin, about a year past, mentioned that he had been then thirteen years in this country, and that he was nineteen years old when he came. Did you ever hear Mr. Gallatin say when or where he took the oath of allegiance? He replies, he heard Mr. Gallatin say that he took the oath of allegiance in Virginia, but, as to the time, the deponent cannot be precise, but he thinks, if he can recollect, that Mr. Gallatin did mention to him, though he cannot be certain; but it was not nine years before he was elected. That the deponent thinks Mr. Gallatin's doubts respecting his citizenship were founded on this ground, the witness referring in this part of his testimony to the meeting before mentioned, when these doubts were expressed; but he cannot specify the time of Mr. Gallatin's having mentioned to him the circumstance of his having taken the oath of allegiance.

"Sworn to, and subscribed, January 28, 1794."

"Mr. Thomas Stokely, being sworn, deposes and saith, that, some few days before a Senator was chosen for the State of Pennsylvania, a meeting was had to fix on a proper person to represent the State in that office; sundry persons were started as candidates, among whom was Mr. Gallatin, who, upon his being named, observed that there were many other persons more proper to fill that office: and also observed, that there might be doubts as to his citizenship, though the deponent, from the length of time, and not expecting to have been called upon, retains too slight an impression of what then passed, to be able to recollect the words with precision. That, at a subsequent meeting for the same purpose, Mr. Gallatin was finally agreed to be nominated, and the deponent heard no objection stated thereto, either by Mr. Gallatin (who was present) or any other person.

"Sworn to, and subscribed, February 1, 1794."

"The before-recited evidence being introduced and closed on the part of the petitioners, Mr. Gallatin was asked whether he had any testimony to produce on his part, to which he gave the following answer, in writing, to wit:

"The committee to whom the petition of Conrad

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Laub, &c. was referred, having informed me that the petitioners had closed their evidence, and asked me 'whether I had any testimony to produce on my side.' I answer, that it appears to me that there is not sufficient matter charged in the petition, and proved by the testimony, to vacate my seat; that, by the resolution appointing the committee, the petition is referred to them to state the facts, 'without prejudice as to any questions which may, upon the hearing, be raised by the sitting member, as to the sufficiency of the parties and the matter charged in the petition;' that, upon the hearing, and in the present stage of the same, the question as to the sufficiency of matter, as above stated, is raised by me; that I conceive, from the evident construction of the resolution, I have a right to have that question decided by the Senate; that, until the same shall have been decided, I do not wish to be at the trouble and expense of collecting evidence at a great distance: and, therefore, that at present, I do not mean to produce any testimony, reserving, however, to myself the right which I conceive I have to produce any testimony in my favor, after the said question shall have been decided by the Senate, in case it is decided against me.

"ALBERT GALLATIN."

"Which being duly read and considered, the Committee came to the following resolution, to wit:

"Whereas the evidence on the part of the petitioners having been closed, and it appearing that Mr. Gallatin was an alien in the year 1780; and his answer, in writing, assigning reasons why he should not adduce evidence on his part in the present stage of the inquiry, not being, in the opinion of the Committee, sufficient,

"Resolved, That, in the opinion of the Committee, it is now incumbent on Mr. Gallatin to show that he has become a citizen of the United States, and when.

"Which resolution being read to Mr. Gallatin, he informed the Committee he should rely on the answer he had before given.

"All which is respectfully submitted to the honorable Senate by the Committee."

And subjoined is the statement of facts exhibited by Mr. GALLATIN, and agreed to between him and the counsel for the petitioners, as mentioned the 20th instant:

"Albert Gallatin was born at Geneva, on the 29th day of January, 1761. He left that place for the United States in April or May, 1780, arrived in Boston (Massachusetts) on the 14th or 15th July of the same year, and has ever since resided within the United States. In October, 1780, he removed from Boston to Machias in the Province of Maine, in which place and its neighborhood, he resided one year, and commenced a settlement on a tract of vacant land. During that time, he furnished, out of his own funds, supplies (amounting in value to more than sixty pounds Massachusetts currency) to Colonel John Allen, who was the commanding officer stationed there, and also Superintendent of Indian Affairs for the Eastern Department, for the use of the American troops, and on several occasions acted as a volunteer under the same officer's command. For the said supplies, he received, one year after, a warrant on the Treasury of the State of Massachusetts, which he sold at a considerable depreciation. In October, 1781, he returned to Boston; and, in the spring of 1782, was, by a vote of the Corporation of the University of Cambridge, (otherwise called Harvard College,) chosen instructor of the French language of the said University.

By the same vote he was allowed a room in the College, the privilege of the Commons at the Tutor's table, the use of the Library, and also the right of having his pay (which depended on the voluntary subscription and attendance of the students) collected by the steward of the institution, together with the other charges against the students for board and education. Those terms he accepted, and remained in that station for the term of one year. In July, 1783, he removed to Pennsylvania, and in November of the same year proceeded to Virginia, in which State he had purchased more than one thousand acres of land, (and amounting to more than one hundred pounds Virginia currency in value.) some time between July and November, 1783. Between this last mentioned period and the month of October, 1785, he purchased other lands in the said State to a very large amount, and in the said last mentioned month he took an oath of allegiance to the said State. In December, 1785, he purchased the plantation in Fayette county in Pennsylvania, on which he has lived ever since. In October, 1789, he was elected member of the Convention to amend the Constitution of Pennsylvania, and in October, 1790, 1791, and 1792, he was elected member of the Legislature of the same State. On the 28th of February, 1793, he was chosen Senator to represent the said State in the Senate of the United States, and took his seat in December following."

MONDAY, March 3.

The Communications referred to in the Message of the PRESIDENT OF THE UNITED STATES of the 26th of February, were in part read.

Ordered, That the further reading of them at this time be postponed.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and  
of the House of Representatives:*

I transmit to you an extract from a letter of Mr. Short, relative to our affairs with Spain; and copies of two Letters from our Minister at Lisbon, with their enclosures, containing intelligence from Algiers. The whole of these communications are made in confidence, except the passage in Mr. Short's Letter which respects the Spanish convoy.

G. WASHINGTON.

UNITED STATES, March 3, 1794.

The Message and papers therein referred to were read.

Ordered, That they lie for consideration.

The petition of Peter Trezovant, of the State of South Carolina, was read, praying compensation for certain goods bought of Robert Farquhar, and stated to be for the use of the United States, though purchased by order and appropriated to the more immediate use of the State of Georgia.

Ordered, That this petition lie on the table.

Mr. CABOT reported, from the Committee to whom was referred the bill sent from the House of Representatives for concurrence; entitled "An act for the remission of the duties arising on the tonnage of sundry French vessels which have taken refuge in the ports of the United States," that this bill pass the Senate; and the bill was read the second time; and, on motion, was read the third time and passed.



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four," and a bill entitled "An act making further provision for the expenses attending the intercourse of the United States with foreign nations, and further to continue in force the act entitled 'An act providing the means of intercourse between the United States and foreign nations;' in which several bills they desire the concurrence of the Senate.

The bills last mentioned were severally read the first time, and ordered to a second reading.

*Ordered*, That the documents referred to in the PRESIDENT'S Message of the 5th instant, relative to the vexations and spoliations on the commerce of the United States, be returned to the office of the Secretary of State.

*Ordered*, That the Secretary of State, as soon as may be, furnish the Senate with an abstract of the vexations and spoliations lately committed upon our commerce, and upon whom, particularly noting the condemnations, as far as the documents in his office will enable him.

The bill sent from the House of Representatives for concurrence, entitled "An act limiting the time for presenting claims for destroyed certificates of certain descriptions," was read the second time.

*Ordered*, That this bill be referred to Messrs. CABOT, TAYLOR, ELLSWORTH, GUNN, and KING, to consider and report thereon to the Senate.

The bill authorizing and directing the settlement of the accounts of Major General LAFAYETTE was read the third time.

*Resolved*, That this bill pass, that it be engrossed, and that the title thereof be "An act allowing to Major General LAFAYETTE his pay and emoluments while in the service of the United States."

## FRIDAY, March 14.

The VICE PRESIDENT laid before the Senate the Report from the Secretary for the War Department on the petition of Robert Connelly; which was read, and ordered to lie on the table.

Mr. KING, from the committee appointed to consider the bill, sent from the House of Representatives for concurrence, entitled "An act to provide for the defence of certain ports and harbors in the United States," reported amendments; which, being adopted,

*Ordered*, That this bill pass to the third reading.

The bill sent from the House of Representatives for concurrence, entitled "An act authorizing a Loan of one million of dollars," was read the third time, and passed.

The bill sent from the House of Representatives for concurrence, entitled "An act making further provision for the expenses attending the intercourse of the United States with foreign nations, and further to continue in force the act entitled 'An act providing the means of intercourse between the United States and foreign nations,'" was read the second time.

*Ordered*, That this bill be referred to Messrs. KING, MORRIS, and STRONG, to consider and report thereon to the Senate.

Mr. KING, from the committee appointed on

this bill, reported an amendment, which being adopted,

*Ordered*, That this bill pass to a third reading.

The bill sent from the House of Representatives for concurrence, entitled "An act making appropriations for the support of the Military Establishment of the United States for the year one thousand seven hundred and ninety-four," was read the second time.

*Ordered*, That this bill be referred to Messrs. KING, VINING, and GUNN, to consider and report thereon to the Senate.

## MONDAY, March 17.

The VICE PRESIDENT laid before the Senate the Report of the Secretary for the Department of War on the petitions of Theodore Chartier and others; which was read, and ordered to lie on the table.

Mr. BRADLEY reported, from the committee appointed to consider the petition of Jabez Rogers, jr., that the prayer of the petition be granted.

The bill sent from the House of Representatives for concurrence, entitled "An act to provide for the defence of certain ports and harbors in the United States," was read the third time.

*Resolved*, That this bill pass with amendments.

The bill, sent from the House of Representatives for concurrence, entitled "An act to provide a Naval Armament," was read the second time, and referred to Messrs. LANGDON, MORRIS, BUTLER, TAYLOR, and CABOT, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act making further provision for the expenses attending the intercourse of the United States with foreign nations; and further to continue in force the act, entitled 'An act providing the means of intercourse between the United States and foreign nations;'" was read the third time.

*Resolved*, That this bill pass with an amendment.

The Senate resumed the second reading of the bill, sent from the House of Representatives for concurrence, entitled "An act to prohibit the carrying on the slave-trade from the United States to any foreign place or country."

On motion to postpone the bill to the next session of Congress, it passed in the negative.

*Ordered*, That the further consideration of this bill be postponed.

## TUESDAY, March 18.

Mr. KING, from the committee appointed to consider the bill, sent from the House of Representatives for concurrence, entitled "An act making appropriations for the support of the Military Establishment of the United States for the year one thousand seven hundred and ninety-four;" reported the bill without amendment.

*Ordered*, That this bill pass to a third reading.

A motion was made and seconded, that it be

"*Resolved*, That a committee be appointed to examine into and report on the practicability of obtaining state-



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ments of the principles on which the accounts of the individual States with the United States have been settled, and a statement of the several credits allowed in the said settlement :"

*Ordered*, That this motion lie for consideration.

Mr. LANGDON, from the committee appointed to consider the bill, sent from the House of Representatives for concurrence, entitled "An act to provide a Naval Armament," reported amendments; which were in part adopted.

*Ordered*, That this bill pass to a third reading.

A message from the House of Representatives informed the Senate, that the House have passed a bill, entitled "An act to provide for the erecting and repairing arsenals and magazines, and for other purposes;" and "A resolution that the PRESIDENT OF THE UNITED STATES, be authorized to employ, as despatch boats, such of the revenue cutters of the United States as the public exigencies may require;" in which bill and resolution, severally, they desire the concurrence of the Senate.

The following Message was received from the PRESIDENT OF THE UNITED STATES :

*Gentlemen of the Senate, and  
of the House of Representatives :*

The Minister Plenipotentiary of the French Republic having requested an advance of money, I transmit to Congress certain documents relative to that subject.

G. WASHINGTON.

UNITED STATES, March 18, 1794.

The Message and papers were read, and ordered to lie for consideration.

The resolution sent from the House of Representatives for concurrence, "authorizing the PRESIDENT OF THE UNITED STATES to employ as despatch boats, such of the revenue cutters as the public exigencies may require;" was read.

*Resolved*, That the Senate concur therein.

The bill, sent from the House of Representatives for concurrence, entitled "An act to provide for the erecting and repairing of arsenals and magazines, and for other purposes," was read the first time, and ordered to a second reading.

The Senate resumed the second reading of the bill sent from the House of Representatives for concurrence, entitled "An act to prohibit the carrying on the slave-trade from the United States to any foreign place or country."

*Ordered*, That this bill pass to a third reading.

WEDNESDAY, March 19.

The bill sent from the House of Representatives for concurrence, entitled "An act to provide a Naval Armament," was read a third time and passed.

*Resolved*, That the bill pass with amendments.

The report of the committee to whom was referred the petition of Jabez Rogers, jr., was read and adopted, and the committee were instructed to bring in a bill for the purposes therein expressed.

Mr. BRADLEY, from the committee last mentioned, reported a bill for the remission of the duties on certain distilled spirits destroyed by fire, which was read the first time and ordered to a second reading.

The bill sent from the House of Representatives for concurrence, entitled "An act to prohibit the carrying on the slave trade from the United States to any foreign place or country," was read the third time and passed.

The bill sent from the House of Representatives for concurrence, entitled "An act making appropriations for the support of the Military Establishment of the United States, for the year one thousand seven hundred and ninety-four," was read the third time and passed.

The bill sent from the House of Representatives for concurrence, entitled "An act to provide for the erecting and repairing of arsenals and magazines, and for other purposes," was read the second time.

*Ordered*, That this bill be referred to Messrs. GUNN, KING, and BRADLEY, to consider and report thereon to the Senate.

*Ordered*, That leave be given to bring in a bill to authorize the PRESIDENT OF THE UNITED STATES, in certain cases, to alter the place for holding a session of Congress.

The bill was accordingly laid on the table, and read the first time.

*Ordered*, That this bill pass to the second reading.

THURSDAY, March 20.

The bill to authorize the PRESIDENT OF THE UNITED STATES, in certain cases, to alter the place for holding a session of Congress, was read the second time.

*Ordered*, That this bill be referred to Messrs. LIVERMORE, GUNN, and ELLSWORTH, to consider and report thereon to the Senate.

The bill for the remission of the duties on certain distilled spirits, destroyed by fire, was read the second time; and, the rule being dispensed with, the bill was read a third time and passed.

Mr. CABOT, from the committee to whom was referred the bill, entitled "An act limiting the time for presenting claims for destroyed certificates of certain descriptions," reported amendments.

*Ordered*, That they be printed for the use of the Senate.

Mr. GUNN, from the committee to whom was referred the bill, entitled "An act to provide for the erecting and repairing of arsenals and magazines, and for other purposes," reported amendments, which were adopted.

*Ordered*, That this bill pass to the third reading.

FRIDAY, March 21.

The bill sent from the House of Representatives for concurrence, entitled "An act to provide for the erecting and repairing of arsenals and magazines, and for other purposes," was read the third time.

*Resolved*, That this bill pass with amendments.

Mr. LIVERMORE, from the committee to whom was referred the bill to authorize the PRESIDENT OF THE UNITED STATES, in certain cases, to alter

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No. 53.

[1st SESSION.]

## LAWS OF THE NORTH WESTERN TERRITORY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MAY 24, 1794.

Mr. FINDLAY, from the committee to whom were referred laws of the Territory of the United States northwest of the river Ohio, of the following titles, viz:

- "An act for granting licenses to merchants, traders, and tavern keepers;"
  - "An act creating the offices of Treasurer General of the Territory, and Treasurers for the counties;"
  - "An act directing the manner in which money shall be raised and levied to defray the charges which may arise within the several counties in the territory;"
  - "An act for opening and regulating highways;"
  - "An act directing the building and establishment of a court-house, county jail, pillory, whipping post, and stocks, in every county."
  - "An act for the better regulating of prisons;"
  - "An act for the disposition of strays;"
  - "An act to repeal certain parts of An act, entitled An act creating the office of clerk of the Legislature;"
  - "An act supplementary to a law entitled A law regulating marriages;"
  - "An act to regulate the admission of attorneys;"
  - "An act empowering the judge of probate to appoint guardians to minors and others;"
  - "An act prescribing forms of writs in civil cases, and directing the mode of proceeding therein;"
  - "An act establishing and regulating the fees of the several officers, and other persons therein mentioned;"
- All passed at Cincinnati, in the county of Hamilton, on the 1st day of August, 1792, by Winthrop Sargent, Secretary, then vested with powers of Governor, and John Cleeves Symmes, and Rufus Putnam, Judges of the said Territory, made the following report:

That on examination of the said laws, they find many of the provisions contained in them are objectionable, but the committee conceive that it would be immaterial for them to detail the particular objections which have occurred to them, as there is one applying to the whole of the said laws, and which, in the opinion of the committee, affords a sufficient reason for disapproving the whole of them. All the legislative power which the committee find vested in the Governor and judges of the Territory, is given in the ordinance of Congress, passed on the thirteenth day of July, 1787, by which it is declared, "That the Governor and judges, or a majority of them, shall adopt and publish in the district such laws of the original States, criminal and civil, as may be necessary, and best suited to the circumstances of the district, and report them to Congress from time to time; which laws shall be in force in the district unless disapproved of by Congress." These laws appear to have been passed by the Secretary and judges on the idea that they were possessed generally of legislative power, and have not, either in whole or in part, been adopted from laws of the original States.

The committee therefore submit the following resolve: *Resolved*, That all the laws passed by the Secretary and judges of the Territory of the United States northwest of the river Ohio, on the 1st day of August, 1792, be disapproved, excepting a law entitled "An act creating the office of clerk of the Legislature."

3d CONGRESS.]

No. 54.

[1st SESSION.]

## FEES OF COURTS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MAY 27, 1794.

Mr. BOUDINOT, from the committee to whom was referred the letter from the Attorney General of the 21st instant, accompanying a table of costs and fees, for the courts of the United States, \* made the following report:

That in order to equalize the fees to be received in the courts of the United States, and to form a bill as perfect as possible, the committee are of opinion that it is necessary to obtain complete tables of the fees at present taxable in the supreme and superior courts in the several States in the Union. That it appears that the Attorney General could not obtain the same for want of a law authorizing him to call upon the different officers for that purpose, and that the table of fees reported by him has been formed without that aid which a comparison of the fees in the different States would have furnished. The committee, therefore, recommend the following resolutions to be adopted by the House:

*Resolved*, That a committee be appointed to bring in a bill to continue the act to ascertain the fees in admiralty proceedings, in the courts of the United States and for other purposes, until the end of the next session of Congress.

*Resolved*, That a clause be inserted in the said bill, making it the duty of the clerks of the several districts of the United States, severally to return true copies of the tables of fees payable by law or custom in the supreme or superior courts of the State in which such clerk resides to the Attorney General of the United States, on or before the 1st day of December next.

*Resolved*, That the table of fees reported by the Attorney General be referred back to him with directions that he do report to this House, during the next session of Congress, such table of fees and regulations relative to the same, as, on a comparative view of fees taxable in the several States, shall, in his opinion, be proper to be established for the courts of the United States.

\* The letter and table here referred to are not to be found.



BY AUTHORITY OF CONGRESS.

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THE  
**Public Statutes at Large**  
OF THE  
**UNITED STATES OF AMERICA,**

FROM THE  
ORGANIZATION OF THE GOVERNMENT IN 1789, TO MARCH 3, 1845.

**ARRANGED IN CHRONOLOGICAL ORDER.**

WITH  
REFERENCES TO THE MATTER OF EACH ACT AND TO THE SUBSEQUENT ACTS  
ON THE SAME SUBJECT,

AND  
COPIOUS NOTES OF THE DECISIONS

OF THE  
**Courts of the United States**

CONSTRUING THOSE ACTS, AND UPON THE SUBJECTS OF THE LAWS.

WITH AN  
**INDEX TO THE CONTENTS OF EACH VOLUME,**  
AND A  
FULL GENERAL INDEX TO THE WHOLE WORK, IN THE CONCLUDING VOLUME.

TOGETHER WITH  
**The Declaration of Independence, the Articles of Confederation, and  
the Constitution of the United States;**

AND ALSO,  
TABLES, IN THE LAST VOLUME, CONTAINING LISTS OF THE ACTS RELATING TO THE JUDICIARY,  
IMPOSTS AND TONNAGE, THE PUBLIC LANDS, ETC.

EDITED BY  
**RICHARD PETERS, ESQ.,**  
COUNSELLOR AT LAW.

The rights and interest of the United States in the stereotype plates from which this work is printed, are hereby recognised, acknowledged, and declared by the publishers, according to the provisions of the joint resolution of Congress, passed March 3, 1845.

VOL. I.

BOSTON:  
CHARLES C. LITTLE AND JAMES BROWN.  
1845.



## STATUTE II.

Jan. 29, 1795.

[Obsolete.]

Augmentation of bounty rendered more general.

1795, ch. 9.

CHAP. XIX.—*An Act in addition to the act entitled "An act to regulate the pay of the non-commissioned officers, musicians and privates of the Militia of the United States, when called into actual service, and for other purposes."*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the augmentation of bounty authorized by the fifth section of the act, entitled "An act to regulate the pay of the non-commissioned officers, musicians and privates of the militia of the United States, when called into actual service, and for other purposes," shall be allowed and paid to such recruits as shall have enlisted after the passing of the said act, or as shall hereafter enlist, in like manner as is by the said act provided in cases of enlistment after the first day of January next.

APPROVED, January 29, 1795.

## STATUTE II.

Jan. 29, 1795.

Act of March 26, 1790, ch. 3.

Repealed by Act of April 14, 1802, ch. 28.

How an alien may become a citizen.

To express his desire of becoming a citizen, and to renounce his former allegiance.

To have certain residence.

To be sworn or affirmed to support the constitution.

To renounce former allegiance.

Court to be satisfied of certain things.

To renounce title, &c.

CHAP. XX.—*An Act to establish an uniform rule of Naturalization; and to repeal the act heretofore passed on that subject.*(a)

FOR carrying into complete effect, the power given by the constitution, to establish an uniform rule of naturalization throughout the United States:

SECTION I. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That any alien, being a free white person, may be admitted to become a citizen of the United States, or any of them, on the following conditions, and not otherwise:—

First. He shall have declared on oath or affirmation, before the supreme, superior, district or circuit court of some one of the states, or of the territories northwest or south of the river Ohio, or a circuit or district court of the United States, three years, at least, before his admission, that it was bona fide, his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign prince, potentate, state or sovereignty whatever, and particularly, by name, the prince, potentate, state or sovereignty whereof such alien may, at the time, be a citizen or subject.

Secondly. He shall, at the time of his application to be admitted, declare on oath or affirmation, before some one of the courts aforesaid, that he has resided within the United States, five years at least, and within the state or territory, where such court is at the time held, one year at least; that he will support the constitution of the United States; and that he doth absolutely and entirely renounce and abjure all allegiance and fidelity to every foreign prince, potentate, state or sovereignty whatever, and particularly by name, the prince, potentate, state or sovereignty, whereof he was before a citizen or subject; which proceedings shall be recorded by the clerk of the court.

Thirdly. The court admitting such alien, shall be satisfied that he has resided within the limits and under the jurisdiction of the United States five years; and it shall further appear to their satisfaction, that during that time, he has behaved as a man of a good moral character, attached to the principles of the constitution of the United States, and well disposed to the good order and happiness of the same.

Fourthly. In case the alien applying to be admitted to citizenship shall have borne any hereditary title, or been of any of the orders of nobility, in the kingdom or state from which he came, he shall, in addition to the above requisites, make an express renunciation of his title or order of nobility, in the court to which his application shall be made; which renunciation shall be recorded in the said court.

(a) See note to act of March 26, 1790, chap. 3.

SEC. 2. *Provided always, and be it further enacted,* That any alien now residing within the limits and under the jurisdiction of the United States, may be admitted to become a citizen, on his declaring on oath or affirmation, in some one of the courts aforesaid, that he has resided two years, at least, within and under the jurisdiction of the same, and one year, at least, within the state or territory where such court is at the time held; that he will support the constitution of the United States; and that he doth absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state or sovereignty whatever, and particularly by name, the prince, potentate, state or sovereignty, whereof he was before a citizen or subject; and moreover on its appearing to the satisfaction of the court, that during the said term of two years, he has behaved as a man of good moral character, attached to the constitution of the United States, and well disposed to the good order and happiness of the same; and, where the alien applying for admission to citizenship, shall have borne any hereditary title, or been of any of the orders of nobility in the kingdom or state from which he came, on his moreover making in the court an express renunciation of his title or order of nobility, before he shall be entitled to such admission; all of which proceedings, required in this proviso to be performed in the court, shall be recorded by the clerk thereof.

How an alien now resident in the U. States shall become a citizen.

SEC. 3. *And be it further enacted,* That the children of persons duly naturalized, dwelling within the United States, and being under the age of twenty-one years, at the time of such naturalization; and the children of citizens of the United States, born out of the limits and jurisdiction of the United States, shall be considered as citizens of the United States: *Provided,* That the right of citizenship shall not descend to persons, whose fathers have never been resident in the United States: *Provided also,* That no person heretofore proscribed by any state, or who has been legally convicted of having joined the army of Great Britain, during the late war, shall be admitted a citizen as aforesaid, without the consent of the legislature of the state, in which such person was proscribed.

How children shall obtain citizenship through their parents.

SEC. 4. *And be it further enacted,* That the act intituled "An act to establish an uniform rule of naturalization," passed the twenty-sixth day of March, one thousand seven hundred and ninety, be, and the same is hereby repealed.

Former act repealed.  
1790, ch. 3.

APPROVED, January 29, 1795.

STATUTE II.

CHAP. XXI.—*An Act to amend the act intituled "An act making alterations in the Treasury and War departments."(a)*

Feb. 13, 1795.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in case of vacancy in the office of Secretary of State, Secretary of the Treasury, or of the Secretary of the department of War, or of any officer of either of the said departments, whose appointment is not in the head thereof, whereby they cannot perform the duties of their said respective offices; it shall be lawful for the President of the United States, in case he shall think it necessary, to authorize any person or persons, at his discretion, to perform the duties of the said respective offices, until a successor be appointed, or such vacancy be filled: *Provided,* That no one vacancy shall be supplied, in manner aforesaid, for a longer term than six months.

Act of May 8, 1792, ch. 37.

[Obsolete.]  
In case of vacancy in the departments, President to fill them.

Proviso.

APPROVED, February 13, 1795.

(a) See note to act of May 8, 1792, chap. 37.

THE

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Part

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DEBATES AND PROCEEDINGS

IN THE

CONGRESS OF THE UNITED STATES ;

WITH

AN APPENDIX,

CONTAINING

IMPORTANT STATE PAPERS AND PUBLIC DOCUMENTS,

AND ALL

THE LAWS OF A PUBLIC NATURE;

WITH A COPIOUS INDEX.

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FOURTH CONGRESS—FIRST SESSION.

COMPRISING THE PERIOD FROM DECEMBER 7, 1795, TO JUNE 1, 1796,  
INCLUSIVE.

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COMPILED FROM AUTHENTIC MATERIALS.

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WASHINGTON:

PRINTED AND PUBLISHED BY GALES AND SEATON.

.....  
1855.



# PROCEEDINGS AND DEBATES

OF THE

## HOUSE OF REPRESENTATIVES OF THE UNITED STATES,

AT THE FIRST SESSION OF THE FOURTH CONGRESS, BEGUN AND HELD AT THE CITY OF PHILADELPHIA, DECEMBER 7, 1795.

MONDAY, December 7, 1795.

The following members appeared and took their seats:

*From New Hampshire.*—ABIEL FOSTER, NICHOLAS GILMAN, JOHN S. SHEKURNE, and JEREMIAH SMITH.

*From Massachusetts.*—THEOPHILUS BRADBURY, HENRY DEARBORN, DWIGHT FOSTER, NATHANIEL FREEMAN, JR., BENJAMIN GOODHUE, GEORGE LEONARD, SAMUEL LYMAN, WILLIAM LYMAN, JOHN REED, THEODORE SEDGWICK, GEORGE THATCHER, JOSEPH E. VARNUM, and PRILEG WADSWORTH.

*From Rhode Island.*—BENJAMIN BOURNE, and FRANCIS MALBONE.

*From Connecticut.*—JOSHUA COIT, CHAUNCEY GOODRICH, ROGER GRISWOLD, ZEPHANIAH SWIFT, and URIAH TRACY.

*From Vermont.*—ISRAEL SMITH.

*From New York.*—THEODORUS BAILEY, WILLIAM COOPER, EZEKIEL GILBERT, HENRY GLEN, JONATHAN N. HAVENS, EDWARD LIVINGSTON, JOHN E. VAN ALLEN, PHILIP VAN CORTLANDT, and JOHN WILLIAMS.

*From New Jersey.*—JONATHAN DAYTON, AARON KITCHELL, ISAAC SMITH, and MARK THOMPSON.

*From Pennsylvania.*—DAVID BAIRD, ALBERT GALLATIN, DANIEL HEISTER, JOHN WILEES KITTERA, SAMUEL MACLAY, FREDERICK AUGUSTUS MÜHLENBERG, SAMUEL SITGREAVES, JOHN SWANWICK, and RICHARD THOMAS.

*From Delaware.*—JOHN PATTON.

*From Maryland.*—GABRIEL CHRISTIE, GEORGE DENT, GABRIEL DUVALL, WILLIAM HINDMAN, and WILLIAM VANS MURRAY.

*From Virginia.*—SAMUEL J. CABELL, JOHN CLOPTON, ISAAC COLES, WILLIAM B. GILES, GEORGE HANCOCK, CARTER B. HARRISON, JOHN HEATH, GEORGE JACKSON, JAMES MADISON, ANDREW MOORE, JOSIAH PARKER, ROBERT RUTHERFORD, and ABRAHAM VENABLE.

*From North Carolina.*—THOMAS BLOUNT, NATHAN BRYAN, DEMPSEY BURGESS, JESSE FRANKLIN, WILLIAM B. GROVE, JAMES HOLLAND, MATTHEW LOCKE, NATHANIEL MACON, and ABSALOM TATOM.

*From South Carolina.*—SAMUEL EARLE, ROBERT GOODLOE HARPER, and WILLIAM SMITH.

*From Georgia.*—ABRAHAM BALDWIN.

And a quorum, consisting of a majority of the whole number being present,

The House proceeded, by ballot, to the choice of a SPEAKER; and, upon examining the ballots, a majority of the votes of the whole House was found in favor of JONATHAN DAYTON, one of the Representatives for the State of New Jersey: Whereupon:

The said JONATHAN DAYTON was conducted to the Chair, from whence he made his acknowledgments to the House as follows:

GENTLEMEN: It is with real diffidence that I undertake the execution of the duties which you have done me the honor to assign to me.

In discharging them to the best of my abilities, I anticipate, on your part, a liberal and indulgent temper towards those decisions which may be required from the Chair, and flatter myself that I shall experience, upon all occasions, your co-operation and support.

The House proceeded, in the same manner, to the appointment of a Clerk; and, upon examining the ballots, a majority of the votes of the whole House was found in favor of JOHN BECKLEY.

The oath to support the Constitution of the United States, as prescribed by the act, entitled "An act to regulate the time and manner of administering certain oaths," was then administered by ISAAC SMITH, one of the Representatives from the State of New Jersey, to the SPEAKER, and then by Mr. SPEAKER to all the members present.

The same oath, together with the oath of office prescribed by the said recited act, were also administered by Mr. SPEAKER to the Clerk.

A message was received from the Senate, informing the House that a quorum of members of that body is assembled, and the VICE PRESIDENT being absent, they have proceeded to the choice of a PRESIDENT *pro tempore*, and that HENRY TAZEWELL has been duly elected.

Ordered, That a Message be sent to the Senate to inform that body that a quorum of this House is assembled, and have elected JONATHAN DAYTON their SPEAKER; and that the Clerk of this House do go with the message.

Another message from the Senate was received, informing this House that they have appointed a committee on their part, to act jointly with such committee as may be appointed by this House, to

FEBRUARY, 1797.]

*Lands Northwest of the Ohio.*

[H. OF R.]

and for repealing that part of the former act which related to the officering and manning the vessels.

#### LANDS NORTHWEST OF THE OHIO.

The House then resolved itself into a Committee of the Whole, on the report of a select committee on the propriety of making certain alterations in the law providing for the sale of certain lands Northwest of the river Ohio. The Committee recommended the adoption of a resolution to the following effect :

*Resolved*, That the act entitled an act providing for the sale of lands of the United States in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river, be so amended, as that only one-fifth of the purchase money for the same shall be required within thirty days, and that the rest be paid by four equal annual instalments."

A motion was made to strike out one-fifth and to leave it a blank, which was negatived.

Mr. VAN ALLEN next moved a provision for dividing the quarter township lots into lots of a mile square. This motion was supported by the mover, Messrs. WILLIAMS, HENDERSON, and FINDLSY, on the ground of accommodating real settlers, because it appeared that the large lots would not sell, and because the land would be likely to be disposed of for a higher price if sold in lots purchasable by farmers and persons who bought with an intention of cultivating. It was opposed by Messrs. COOPER, NICHOLAS, and KITTEKA, on the idea that the land would never be purchased or settled, except through the medium of moneyed men; that they would first purchase the land in large lots, and then parcel it out to real settlers, and that though farmers gave a greater price for the land in this way, it would eventually be better for them, since the moneyed man would find himself interested in getting the whole of his tract settled as soon as possible, and thereby greatly enhance the value of the property; that except this plan was adopted settlers would choose here and there a lot of the best land, and the remainder would lie on hand.

The motion was put and negatived.

The original resolution then came under consideration. It was supported by Messrs. COOPER, NICHOLAS, and GALLATIN. It was urged that the additional time given for the payment would induce moneyed men to embark capital in the purchase of this land; that if it were not soon disposed of, persons who had no authority to do so would get possession of it, and there would be great difficulty in removing them; and that it was necessary to make the proposed amendment, in order that the terms might be as eligible as those held out by any of the States which had waste land to dispose of. It was opposed by Messrs. S. SMITH, COIT, HARPER, and VENABLE. It was said by them, that it was probable that nothing more would be received of the purchasers than the first deposit, if so long a credit was given; that it would create an host of enemies to Government; that when the time of payment came, instead of money, they should have petitions sent in for a prolonging of the time of payment; they would, therefore, rather prefer

a lowering of the price than an extension of credit.

The resolution was put and negatived, there being only 24 votes in favor of it.

Mr. GALLATIN then proposed that the public stock should be received in payment for the land at its full value. The scarcity of money at present, he said, had reduced the value of the public stock, and it would therefore afford an advantage to purchasers, and no disadvantage to the United States, since they could never expect to pay off their debt at less than the full value. If any foreigners who were in possession of the public stock of this country chose to convert it into land, it would be an easy way of paying off our debt. In this case the land would pay the debt immediately, and the money could not otherwise be appropriated. He, therefore, proposed a resolution as follows :

*Resolved*, That the evidences of the Public Debt of the United States, shall be receivable in payment for all the lands that may be sold after the — day of — next; the six per cent. stock and Foreign Debt to be received at their nominal value; and the rate at which the other species of stock shall be received, to bear the same proportion to their respective market prices, as the nominal value of the six per cent. stock shall, at the time of payment, bear to its market price."

Mr. COIT was against this measure as reducing the land twenty per cent. in the price.

Mr. S. SMITH was in favor of the resolution, but wished it to extend to all money due for purchases already made, otherwise those persons would have reason to complain of being more hardly dealt with than others. This motion was seconded by Mr. HEATH. It was objected to by Messrs. NICHOLAS, W. SMITH, and G. JACKSON, as unreasonable, and what could not be expected; they had agreed to give the price for the land which had been bargained for, and having had a choice of the best of it, it was probable that they had made very advantageous purchases; and that it was probable, from the Public Debt being taken in payment at its full value, the land which might be sold in future would command a proportionably higher price.

The amendment was put and negatived, and then the resolution was put and carried.

The Committee then rose, and the House agreed to the amendment.

*Ordered*, That a bill or bills be brought in pursuant to the said resolution; and that Messrs. NICHOLAS, N. SMITH, and BARD, do prepare and bring in the same.

#### MILITARY APPROPRIATIONS.

Mr. W. SMITH said, from the delay which had taken place with respect to the Military Establishment, they had been prevented from making the necessary appropriations for that object; as the session was drawing to a close, it would be necessary to follow the plan adopted last session. He therefore proposed a resolution to the following effect:

*Resolved*, That a sum not exceeding ——— dol-

# PROCEEDINGS

OF

## THE SENATE OF THE UNITED STATES,

AT THE FIRST SESSION OF THE FOURTH CONGRESS, HELD IN THE CITY OF  
PHILADELPHIA, DECEMBER 7, 1795.

MONDAY, December 7, 1795.

The following Senators appeared, and took their seats:

JOHN LANGDON and SAMUEL LIVERMORE, from New Hampshire;

CALEB STRONG and GEORGE CABOT, from Massachusetts;

THEODORE FOSTER, from Rhode Island;

OLIVER ELLSWORTH and JONATHAN TRUMBULL, from Connecticut;

MOSES ROBINSON, from Vermont;

RUFUS KING, from New York;

JAMES ROSS and WILLIAM BINGHAM, from Pennsylvania;

HENRY LATIMER, from Delaware;

HENRY TAZEWELL and STEPHENS T. MASON, from Virginia;

ALEXANDER MARTIN and TIMOTHY BLOODWORTH, from North Carolina;

PIERCE BUTLER and JACOB READ, from South Carolina.

The VICE PRESIDENT being absent, the Senate proceeded to the election of a PRESIDENT *pro tempore*, as the Constitution provides, and HENRY TAZEWELL was duly elected.

*Ordered*, That the Secretary wait on the PRESIDENT OF THE UNITED STATES, and acquaint him that a quorum of the Senate is assembled, and that, in the absence of the VICE PRESIDENT, they have elected HENRY TAZEWELL, President *pro tempore*.

*Ordered*, That the Secretary acquaint the House of Representatives that a quorum of the Senate is assembled and ready to proceed to business; and that, in the absence of the VICE PRESIDENT, they have elected HENRY TAZEWELL President *pro tempore*.

*Ordered*, That Messrs. READ and CABOT be a joint committee on the part of the Senate, together with such committee as the House of Representatives may appoint on their part to wait on the PRESIDENT OF THE UNITED STATES, and notify him that a quorum of the two Houses is assembled and ready to receive any communications that he may be pleased to make to them.

A message from the House of Representatives informed the Senate that a quorum of the House

is assembled; that they have elected JONATHAN DAYTON their Speaker; and that they have concurred in the appointment of a joint committee to wait on the PRESIDENT OF THE UNITED STATES, and acquaint him that the two Houses of Congress are assembled, and are ready to receive any communications that he may be pleased to lay before them.

Mr. READ from the joint committee appointed for that purpose, reported that they had waited on the PRESIDENT OF THE UNITED STATES, and had notified him that a quorum of the two Houses of Congress were assembled: and the PRESIDENT OF THE UNITED STATES acquainted the committee that he would meet the two Houses in the Representatives' chamber at 12 o'clock to-morrow.

TUESDAY, December 8.

HUMPHREY MARSHALL, from the State of Kentucky, attended.

A message from the House of Representatives informed the Senate that the House are now ready to meet the Senate in the Chamber of that House, to receive such communications as the PRESIDENT OF THE UNITED STATES shall be pleased to make to them.

Whereupon, the Senate repaired to the Chamber of the House of Representatives for the purpose above expressed.

The Senate then returned to their own Chamber, and a copy of the Speech of the PRESIDENT OF THE UNITED STATES to both Houses of Congress was read, as follows:

*Fellow-citizens of the Senate, and  
of the House of Representatives:*

I trust I do not deceive myself while I indulge the persuasion that I have never met you at any period, when, more than at the present, the situation of our public affairs has afforded just cause for mutual congratulation, and for inviting you to join with me in profound gratitude to the Author of all Good for the numerous and extraordinary blessings we enjoy.

The termination of the long, expensive, and distressing war in which we have been engaged with certain Indians Northwest of the Ohio, is placed in the option of the United States, by a Treaty which the Commander



SENATE.]

*Speech of the President.*

[DECEMBER, 1795.]

of our Army has concluded, provisionally, with the hostile tribes in that region.

In the adjustment of the terms, the satisfaction of the Indians was deemed an object worthy no less of the policy than of the liberality of the United States, as the necessary basis of durable tranquility. The object, it is believed, has been fully attained. The articles agreed upon will immediately be laid before the Senate, for their consideration.

The Creek and Cherokee Indians, who alone, of the Southern tribes, had annoyed our frontiers, have lately confirmed their pre existing treaties with us, and were giving evidence of a sincere disposition to carry them into effect, by the surrender of the prisoners and property they had taken; but we have to lament that the fair prospect in this quarter has been once more clouded by wanton murders, which some citizens of Georgia are represented to have recently perpetrated on hunting parties of the Creeks which have again subjected that frontier to disquietude and danger; which will be productive of further expense, and may occasion more effusion of blood. Measures are pursuing to prevent or mitigate the usual consequences of such outrages, and with the hope of their succeeding, at least, to avert general hostility.

A Letter from the Emperor of Morocco announces to me his recognition of our Treaty made with his father the late Emperor, and, consequently the continuance of peace with that Power. With peculiar satisfaction I add, that information has been received from an agent deputed on our part to Algiers, importing that the terms of the Treaty with the Dey and Regency of that country had been adjusted in such a manner as to authorize the expectation of a speedy peace, and the restoration of our unfortunate fellow-citizens from a grievous captivity.

The latest advices from our Envoy at the Court of Madrid, give, moreover, the pleasing information that he had received assurances of a speedy and satisfactory conclusion of his negotiation. While the event, depending upon unadjusted particulars, cannot be regarded as ascertained, it is agreeable to cherish the expectation of an issue which, securing, amicably, very essential interests of the United States, will, at the same time, lay the foundation of lasting harmony with a Power, whose friendship we have uniformly and sincerely desired to cultivate.

Though not before officially disclosed to the House of Representatives, you, gentlemen, are all apprised that a Treaty of Amity, Commerce, and Navigation, has been negotiated with Great Britain; and that the Senate have advised and consented to its ratification, upon a condition which excepts part of one article. Agreeably thereto, and to the best judgment I was able to form of the public interest, after full and mature deliberation, I have added my sanction. The result, on the part of His Britannic Majesty, is unknown. When received, the subject will, without delay, be placed before Congress.

This interesting summary of our affairs, with regard to the foreign Powers between whom and the United States controversies have subsisted, and with regard also to those of our Indian neighbors, with whom we have been in a state of enmity or misunderstanding, opens a wide field for consoling and gratifying reflections. If, by prudence and moderation on every side, the extinguishment of all the causes of external discord which have heretofore menaced our tranquility, on terms compatible with our national rights and honor, shall be

the happy result, how firm and how precious a foundation will have been laid for accelerating, maturing, and establishing the prosperity of our country.

Contemplating the internal situation, as well as the external relations, of the United States, we discover equal cause for contentment and satisfaction. While many of the nations of Europe, with their American dependencies, have been involved in a contest unusually bloody, exhausting, and calamitous; in which the evils of foreign war have been aggravated by domestic convulsions and insurrection; in which many of the arts most useful to society have been exposed to discouragement and decay; in which scarcity of subsistence has embittered other sufferings; while even the anticipations of a return of the blessings of peace and repose are alloyed by the sense of heavy and accumulating burdens which press upon all the departments of industry, and threaten to clog the future springs of Government; our favored country, happy in a striking contrast, has enjoyed general tranquility—a tranquility the more satisfactory, because maintained at the expense of no duty. Faithful to ourselves, we have violated no obligation to others. Our agriculture, commerce, and manufactures, prosper beyond former example; the molestations of our trade (to prevent a continuance of which, however, very pointed remonstrances have been made) being overbalanced by the aggregate benefits which it derives from a neutral position. Our population advances with a celerity which, exceeding the most sanguine calculations, proportionally augments our strength and resources, and guarantees our future security. Every part of the Union displays indications of rapid and various improvement; and with burdens so light as scarcely to be perceived; with resources fully adequate to our present exigencies; with Governments founded on the genuine principles of rational liberty; and with mild and wholesome laws—is it too much to say that our country exhibits a spectacle of national happiness never surpassed, if ever before equalled?

Placed in a situation every way so auspicious, motives of commanding force impel us with sincere acknowledgment to Heaven, and pure love to our country, to unite our efforts to preserve, prolong, and improve, our immense advantages. To co-operate with you in this desirable work, is a fervent and favorite wish of my heart.

It is a valuable ingredient in the general estimate of our welfare, that the part of our country which was lately the scene of disorder and insurrection, now enjoys the blessings of quiet and order. The misled have abandoned their errors, and pay the respect to our Constitution and laws which is due from good citizens to the public authorities of the society. These circumstances have induced me to pardon generally, the offenders here referred to, and to extend forgiveness to those who had been adjudged to capital punishment. For, though I shall always think it a sacred duty to exercise with firmness and energy the Constitutional powers with which I am vested, yet it appears to me no less consistent with the public good than it is with my personal feelings, to mingle, in the operations of Government, every degree of moderation and tenderness which the national justice, dignity, and safety, may permit.

*Gentlemen:*

Among the objects which will claim your attention in the course of the session, a review of our Military Establishment is not the least important. It is called for by the events which have changed, and may be expected still further to change the relative situation of our fron-

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*Speech of the President.*

[SENATE.]

tiers. In this review, you will doubtless allow due weight to the considerations that the questions between us and certain foreign Powers are not yet finally adjusted; that the war in Europe is not yet terminated; and that our Western posts, when recovered, will demand provision for garrisoning and securing them. A statement of our present military force will be laid before you by the Department of War.

With the review of our Army Establishment is naturally connected that of the Militia. It will merit inquiry, what imperfections in the existing plan further experience may have unfolded. The subject is of so much moment, in my estimation, as to excite a constant solicitude that the consideration of it may be renewed until the greatest attainable perfection shall be accomplished. Time is wearing away some advantages for forwarding the object, while none better deserves the persevering attention of the public councils.

While we indulge the satisfaction which the actual condition of our Western borders so well authorizes, it is necessary that we should not lose sight of an important truth, which continually receives new confirmations, namely: that the provisions heretofore made with a view to the protection of the Indians from the violences of the lawless part of our frontier inhabitants are insufficient. It is demonstrated that these violences can now be perpetrated with impunity; and it can need no argument to prove, that, unless the murdering of Indians can be restrained by bringing the murderers to condign punishment, all the exertions of the Government to prevent destructive retaliations by the Indians will prove fruitless, and all our present agreeable prospects illusory. The frequent destruction of innocent women and children, who are chiefly the victims of retaliation, must continue to shock humanity, and an enormous expense to drain the Treasury of the Union.

To enforce upon the Indians the observance of justice, it is indispensable that there shall be competent means of rendering justice to them. If these means can be devised by the wisdom of Congress, and especially if there can be added an adequate provision for supplying the necessities of the Indians, on reasonable terms—a measure, the mention of which I the more readily repeat, as in all the conferences with them they urge it with solicitude—I should not hesitate to entertain a strong hope of rendering our tranquility permanent. I add, with pleasure, that the probability even of their civilization is not diminished by the experiments which have been thus far made under the auspices of Government. The accomplishment of this work, if practicable, will reflect undecaying lustre on our national character, and administer the most grateful consolations that virtuous minds can know.

*Gentlemen of the House of Representatives:*

The state of our revenue, with the sums which have been borrowed and reimbursed pursuant to different acts of Congress, will be submitted from the proper Department, together with an estimate of the appropriations necessary to be made for the service of the ensuing year.

Whether measures may not be advisable to re-enforce the provision for the redemption of the Public Debt, will naturally engage your examination. Congress have demonstrated their sense to be, and it were superfluous to repeat mine, that whatsoever will tend to accelerate the honorable extinction of our Public Debt, accords as much with the true interest of our country as with the general sense of our constituents.

*Gentlemen of the Senate, and  
of the House of Representatives:*

The statements which will be laid before you relative to the Mint will show the situation of that institution, and the necessity of some further Legislative provisions for carrying the business of it more completely into effect, and for checking abuses which appear to be arising in particular quarters.

The progress of providing materials for the frigates, and in building them; the state of the fortifications of our harbors; the measures which have been pursued for obtaining proper sites for arsenals, and for replenishing our magazines with military stores; and the steps which have been taken towards the execution of the law for opening a trade with the Indians—will likewise be presented for the information of Congress.

Temperate discussion of the important subjects which may arise in the course of the session, and mutual forbearance where there is a difference of opinion, are too obvious and necessary for the peace, happiness, and welfare, of our country, to need any recommendation of mine.

G. WASHINGTON.

UNITED STATES, December 8, 1795.

*Ordered*, That MESSRS. KING, ELLSWORTH, and CAROT, be a Committee to report the draft of an Address to the PRESIDENT OF THE UNITED STATES, in answer to his Speech this day to both Houses of Congress.

WEDNESDAY, December 9.

The VICE PRESIDENT of the United States attended.

The following motion was made by Mr. MARTIN:

*Resolved*, That, in conformity to a resolution of the Senate of the United States, passed the 20th day of February, 1794, the gallery of the Senate Chamber be permitted to be opened every morning, subject to the restrictions therein mentioned, a suitable gallery having been erected and provided in the Senate Chamber, in the late recess of Congress, for that purpose."

And, the motion being amended, it was

*Resolved*, That in conformity to a resolution of the Senate of the United States, passed the 20th day of February, 1794, the gallery of the Senate Chamber be permitted to be opened every morning, subject to the restrictions in said resolution mentioned.

A message from the House of Representatives informed the Senate that the House have resolved that two Chaplains, of different denominations, be appointed to Congress for the present session, one by each House, who shall interchange weekly; in which they desire the concurrence of the Senate.

Whereupon, the Senate proceeded to consider the said resolution; and

*Resolved*, That they do concur therein, and that the Right Reverend Bishop WHITE be the Chaplain on the part of the Senate.

*Resolved*, That each Senator be supplied during the present session with copies of three such newspapers, printed in any of the States, as he may choose, provided that the same are furnished at the rate of the usual annual charge for such papers.



## COMPENSATION OF MEMBERS.

Mr. GOODHUE said, that the Committee of Compensation to Members and other Officers of Government were, from sickness, only four—they were equally divided. Mr. COIT was added.

## EXPORTS OF THE UNITED STATES.

A Letter was read from the Secretary of the Treasury, enclosing a statement from the Commissioners of the Revenue of the exports of the United States, from October 1, 1790, to September 30, 1795.

Another communication was read from the Secretary of the Treasury. It enclosed the statement called for by two resolutions of the House of the 18th instant, so far as the Treasury documents furnish materials for the purposes therein mentioned.

These communications were referred to the committee appointed by the resolution introduced by Mr. SAMUEL SMITH.

TUESDAY, January 26.

Mr. TRACY submitted two resolutions. The first for giving the privilege of franking to the Accountant of the War Department; the second to augment his salary. The resolutions lie on the table. [These resolutions were taken up on the subsequent day and referred.]

Mr. HARPER moved that a committee be appointed to inquire what proceedings have been had on the act for the more general promulgation of the Laws of the United States. He also laid on the table a resolution that the number of copies to be printed should be augmented.

Mr. W. SMITH, from the Land Office Committee, reported a bill for establishing land offices for the sale of lands in the Northwestern Territory. The bill was read a first and second time, and referred to a Committee of the Whole House on Tuesday next.

## EXECUTIVE SALARIES.

About twenty printed petitions and remonstrances from certain inhabitants of the State of New Jersey, were laid on the table by Mr. KITCHELL. They were all copies of the same tenor. They complained of the high salaries of the Executive and members of the Legislature. A militia-man, returning from service to his family, has only ten cents per day; a member of Congress has thirty cents per mile. This they regard as an aristocratical distinction.

Mr. KITCHELL said, that he had kept these papers for some time by him, as it was expected that many others of the same kind would be sent to join them. The complaint, he thought, had more foundation formerly than at present, since the great rise in the rate of living.

The petitions were referred to the committee who are to bring in a bill for ascertaining the compensation of members.

## COMMERCE AND NAVIGATION.

Mr. SAMUEL SMITH laid the following resolution on the table:

"Resolved, That the Committee of Commerce and Manufactures do consider whether any, and what, alterations are necessary in the laws of the Union with respect to commerce and navigation."

Mr. SMITH then addressed the SPEAKER as follows: When the proper time shall arrive, it will be prudent, 1st, To make it the interest of all nations to meliorate their deportment towards the United States; 2d, To induce well-disposed nations to act favorably towards us, in their commercial regulations; and 3d, To correct positive evils by indirect means, where prudence restrains us from direct measures. The present time, when the nations of Europe, with whom we have the greatest relation, are on the eve of a peace, appears to me proper to consider the subjects, and I have therefore thought it my duty to lay before the House the resolution just read, that gentlemen may direct their attention to the propriety of repealing that part of the laws which lays an extra duty of 44 cents on foreign tonnage, and of one-tenth additional duty on goods imported in foreign ships. Such duties are in fact commercial war; and will be submitted to by nations in competition no longer than your commerce was insignificant. France resented it in 1791, at which time she employed but 8941 tons of shipping to the United States, and she passed a law laying seven livres per cwt. extra duty, on tobacco imported in American ships. This was equal to 46s. 6d. sterling per hogshead, when the whole freight was but 32s. 6d. per cwt. Thus she secured the carriage of 40,000 hogsheads of tobacco to her own ships. The stroke was immediately felt. Our ships were thrown out of the trade, and in 1792, there entered in our ports, 24,017 tons of French shipping, an increase of 15,076 tons in one year. Circumstances have compelled France to suspend that law, but will she not renew it, if we continue ours? Can we complain if she should? And is there not good ground to fear that she will extend her extra duties to rice, fish, lumber, and other objects of exportation, and thus secure to her ships the carrying of all the products of the United States, that she may have occasion for? It will be remarked that the French goods imported to the United States are fine, and would employ but few ships. But those from America to France are very bulky, and would employ a great number. Mr. JEFFERSON says, that in 1792, we employed 116,410 tons of shipping to France, almost the whole of which advantage will be lost in case she should countervail our protective duties.

In 1791, the merchants of Liverpool complained that our protecting duties had enabled us to monopolize the whole carrying trade between Great Britain and the United States, and prayed the King to take measures of retaliation. The subject was submitted to some merchants of London and Bristol, who acquiesced in the fact, but gave their advice against violent measures, expressing their hope that the evil might be removed by a Treaty of Commerce. In the late Treaty with Great Britain, she has reserved to herself the right of countervail, and bound us from laying any new duties



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objection. He said, the sending of agents might be of considerable advantage to the sale of the lots, as, on their return, their report would be heard by many, and probably influence persons to attend the sale at the Seat of Government; but, if the sale were on the land, no such advantage would arise from the mission of agents.

Mr. RUTHERFORD was in favor of the whole of the lands being sold on the Territory.

Mr. VENABLE said, if the large tracts of land were to be sold only at the Seat of Government, it would be a great disadvantage to the sale: for if a person goes from a very distant part of the country to view the land, he will perhaps have a still longer journey to the Seat of Government to make a purchase, as it is not to be presumed that all persons who mean to purchase will employ agents. This was a very serious inconvenience, and he hoped it would not be agreed to.

The motion was put and carried.

Mr. HILLHOUSE thought it necessary to add a clause, in order to reserve all the salt springs for the use of Government. Agreed to.

Mr. ISAAC SMITH moved that a suitable reservation of land should be made for colleges and schools. Agreed to.

Mr. WILLIAMS moved a clause to the following effect:

"Provided one actual settler be not on every — acres of land within — years from the sale thereof, it shall return to the Government of the United States, the same as if no such sale had taken place."

Mr. CLAIBORNE hoped the lands themselves would be sufficient inducement for settlers, and that purchasers would be left at full liberty in respect to settlement. He could never agree to any regulation that should go to the taking away of land from a purchaser who had fairly paid for it.

Mr. NICHOLAS and Mr. COOPER were both against the motion.

Mr. RUTHERFORD was in favor of the motion.

Mr. WILLIAMS said, if the clause which was recommended was made a condition in the purchase, there was nothing unreasonable in it. It was as necessary that the country should be settled as that the land should be sold. Or shall it be said that the honest, industrious settlers, shall make roads, bridges, and other improvements, whilst the rich holders keep their lands in hand until these improvements are made, in order to increase the value of them? The member from New York who opposed this motion, knows that the poor inhabitants on the new settled lands in that State are obliged to do this. He thought this clause very essential in the act.

Mr. COOPER replied, and the Committee rose, and asked leave to sit again.

WEDNESDAY, March 3.

A message was received from the Senate announcing that they insist on their amendments, disagreed to by this House, to the bill, entitled "An act for establishing trading houses with the Indian tribes."

#### NORTHWESTERN LAND OFFICES.

The House having resolved itself into a Committee of the Whole, on the bill for opening Land Offices for the sale of the Western lands, and the amendment proposing that there should be one actual settler upon every — acres of land, being read—

Mr. HAVENS wished to give some reasons why he thought the amendment unnecessary. He said it had been introduced in the State of New York without effect; there was not rigor sufficient in Government to carry such a clause into effect. Besides, in order to avoid the forfeiture, a purchaser might build a hut, put in a person for a time, and then go off again. Another reason for objecting to it was, when a certain number of inhabitants shall have taken up their residence in the country, it would be organized into a State, and form itself into a Government, which could tax the property of non-residents. This would be an effectual measure to prevent the engrossing of land. A like regulation had taken place in the State of Vermont, which had answered the purpose, and he conceived always would have the effect. He should, therefore, vote against the amendment.

Mr. WILLIAMS said the regulation he proposed had not been carried into effect in the State of New York, but it was owing to the influence of the Legislative body preventing it. It was introduced four years ago; but it was now put into other hands, where the interest of great landholders will not prevent its operation. Were land sold in small tracts, it might be taxed in the way proposed; but when sold in large tracts, the holders of such tracts have generally too great an interest in the Legislature of the State to prevent a law passing to this salutary end. In the State of New York, a tax of this sort was every year proposed, but always rejected by those whose private interest would be affected thereby.

Mr. GALLATIN was in favor of the amendment. He conceived that the happiness and prosperity of the country would be promoted by preventing the lands, the sale of which they were contemplating, from being engrossed in few hands, and he believed the provision now under consideration, together with the price fixed, would have that effect. The only material objection to it is, that it may diminish the revenue by reducing the price that would otherwise be paid for the land. He thought this a specious objection, not a solid one. He believed the regulation would prevent some speculators from purchasing, but he thought it a beneficial thing that they should be driven from the market. Lands which produced nothing were of no real value. The high price expected must be got from real settlers alone. The consequence will be, that a less quantity of land will be sold, but a sufficient quantity to satisfy actual settlers will be disposed of, notwithstanding this clause, and Government will pocket the profit which speculators otherwise would have had. And, in the following year, the land which would have been engrossed by speculators, but for a provision of this kind, will be brought

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into market to meet the demand of fresh settlers, at perhaps an advanced price.

It had been said, Mr. G. observed, that this regulation would hold out too great encouragement to emigration. Whether this law passed or not, the same number of men would go to this land. It was not from a distance that emigrants were to be expected, but from tracts adjacent; this clause would inflict a penalty on men who purchased lands with speculative views alone. With respect to what had been said about an evasion of the act, it would be easy to define what constituted an actual settler.

It has been said, that taxing non-residents would produce the effect intended by this clause. Mr. G. thought differently. In the State of Pennsylvania that practice had been adopted; the taxes laid upon persons of this description have never been sufficient to induce settlement. They have found their land increase more in value by means of settlements taking place, than any amount of taxes laid upon it. It has been said, that larger taxes might be imposed; but they will not be paid. In the country where he lived, the occupiers had been called upon to pay their quota of taxes which could not be got from non-residents. He would ask gentlemen whether they wished the land to be engrossed or not? and if they do not, he would be glad if they could produce a better plan for preventing it than this. Before the Revolution, a plan of this sort was adopted from one end of the country to the other, and he believed it was owing to this regulation, that they owed a great deal of the happiness and prosperity which they had since enjoyed. He wished, therefore, the example to be followed.

Mr. COOPER said few men could afford to pay two dollars an acre, and none would pay it, except those who meant to settle upon the land. It was not well to make severe settling clauses. Security would operate against them. In the State of New York the regulation could never be put in force.

Mr. DAYTON (the Speaker) said, if the sole object of the amendment had been to prevent the land being engrossed, it would have had his support: but he did not think it would have that effect. He thought that fixing the price of the land, which should not be less than two dollars per acre, would produce this effect; but the proposed regulation, he thought would have a different effect; it would reduce the price of the land. He was of opinion that land, which, without this clause, would sell for four dollars an acre, with it, would not sell for more than three and a half. Besides, no Government ever did, or ever would, enforce such a regulation. It would be holding out, also, a premium to emigration, which, he trusted, was not the intention of the Legislature; for persons who purchased land at three dollars and a half per acre, to obtain settlers, might be obliged almost to give it away. Indeed, he thought it unnecessary to multiply arguments against a regulation calculated to produce so many injurious consequences.

Mr. S. SMITH said it did not appear to him that the amendment could have any good effect. No

law which countenanced injustice could be carried into execution; and to take away land from a purchaser, after he had justly paid for it, could not be accounted anything less, as perhaps it might not be possible to get men to settle upon the land within the limited time. For instance, suppose a war was to take place with the Indians, it would be impossible to fulfil the contract. In such case, it will be said, petitions would be heard for relief. The regulation, in his opinion, might produce many evils. The large tracts of land, he said, must be purchased by moneyed men, and there ought to be no objection thrown in their way.

Mr. RUTHERFORD thought the amendment ought to be agreed to. He spoke highly of the people living on the frontier. He heard fishermen say that the best fish always rise highest, and so it was with the people, who were the best on the frontiers; they are not too polite to be religious; they are hospitable and neighborly, and do not employ their nights in nocturnal revellings. These honest men suffer immense inconveniences by the incursions of their savage neighbors, the Indians; they cast their eyes about them for assistance, and see nothing but large unoccupied tracts of lands, whose owners, perhaps, are living secure in some large city. This, he said, was distressing to them. Without this amendment, he thought the bill would have no good effect.

Mr. CLAIBORNE was sorry to differ in opinion from his colleague on this subject. He thought the land would not be settled in half a century, and that the amendment would be a clog on the sale, by deterring men from purchasing. They ought, he said, rather to throw out encouragement to induce men to become purchasers. Excessive laws, he said, were never executed, and to adopt this measure would destroy the bill.

Mr. WILLIAMS was confident his amendment would have the best effects. He believed no country was ever more speedily settled than the Genesee country, in the State of New York, in the law for effecting which, there was a clause of this sort. It is said that the price of two dollars will cause a settlement; then, said he, where is the harm of this clause? There is no forfeiture incurred in case of settlement. With respect to the regulation being a check to the sale, he believed it would be a salutary check. Large lots may be sold somewhat cheaper, but it would not affect the price of small lots. There might be a provision in case of an Indian war; the land, in that case, should not be forfeited for want of settlers. He referred to the practice in the State of New York, and was certain that this plan would eventually produce the most money, at the same time that it would insure a settlement. The lands should be paid for by instalments, and by being gradually brought in the market they would constantly rise in value.

Mr. DAYTON rose to explain, and again expressed his disapprobation of the amendment. He said non-residents might be taxed as high for their unoccupied lands as were the occupiers of improved lands, by which means they would be made to



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contribute their full proportion towards the expense of making roads, bridges, &c.

Mr. COOPER wished to get a good price for the land, in order to pay the Public Debt; and, on this account, he hoped no discouragement would be thrown in the way of purchasers.

Mr. GALLATIN remarked that the member from New Jersey had said, the present amendment would reduce the price of the land. He thought differently. None would purchase but real settlers. Of course, a less quantity will be sold in any one year; but what is sold will command a good price. Instead of selling three millions of acres at two dollars the first year, perhaps one million might be sold at four dollars, and the remaining two millions, instead of selling for two, will bring four dollars, which will be the effect of driving those purchasers from the market who meant to purchase on speculation. The quantity of land to be disposed of, Mr. G. said, was about ten millions of acres, which, divided by 4,000, would make 2,500. But there would be no hope of getting 2,500 families on the lands in one year; but to sell one million of acres a year, it would be disposed of in ten years, by which means 1,000 families might be accommodated with 1,000 acres each, and the highest price be got for it that the land was really worth. With respect to the revenue, this plan will give to the Government all the profits of the speculator. Government would be, in effect, its own speculator. If the land, said he, was the property of a private individual, he would never agree to sell the whole in one year, when he knew that a large number of families would every year be in want of a portion of this land. Another objection is, that this regulation would amount to a bounty on emigration. An observation made by gentlemen who opposed the amendment, struck him with much force in favor of it. Say they, if you oblige purchasers to settle the land within a limited time, they may be obliged to give their land for nothing. He wished that might take place. If the cause of the happiness of this country was examined into, he said it would be found to arise as much from the great plenty of land in proportion to the inhabitants, which their citizens enjoyed, as from the wisdom of their political institutions. It is, in fact, said he, because the poor man has been able always to attain his portion of land. And it was perfectly immaterial to them whether a man was happy in New Jersey or upon the Western Territory, it was their duty to do all in their power to promote the general happiness of the whole country.

To resume, said Mr. G., the experience of a century might be called to prove that the happiness of this country had been promoted by regulations similar to that now under consideration. In New England no tract had ever been granted without an obligation to settlement. He thought therefore they ought not to part with such a provision on mere theory. The consequence would perhaps be, the price of labor would be kept up. He wished it to be so. It was not only a sure mark of prosperity, but afforded comfort to the poor man; it was his wish to increase rather than diminish that

comfort. He concluded by hoping the amendment would obtain.

Mr. N. SMITH said the proposed amendment in his opinion, would have no effect but to diminish the price of the land, and offer a premium to emigration. The advantage proposed by the measure is to drive all speculators from the market. He thought the argument ill founded. He said this clause would introduce considerable embarrassment into the business, and where there was any degree of embarrassment, the broader was the field for speculation. Speculators will still purchase, but at a price that will indemnify them against any contingency. For, suppose the land worth four dollars an acre, under these circumstances, not more than two or three will be given. Gentlemen suppose that, if this amendment takes place, every purchaser will go upon the land. No such thing will happen; a servant or tenant would answer the purpose. Advert to the bill, said Mr. S., and it will be seen that tracts are to be sold in lots of three miles square, by vendue, at the Seat of Government. The speculator comes forward, and every man who purchases will bear it in mind, that settlers must be upon the land in a certain time. This will not prevent the land from being sold, but it will diminish the price, and operate as an encouragement to emigration. He was surprised to hear that the gentleman who, a few days ago, had said he did not wish to encourage emigration, now supports a measure which seemed to have that for its principal object. He would have men emigrate to what place, and when they pleased, but would not offer them a premium for doing so.

Mr. NICHOLAS thought the clause proposed would be extremely discouraging to purchasers. The uncertainty of procuring settlers will deter moneyed men from adventuring their property in this land. He was of opinion it would have a tendency to put the land into the hands of speculators at a low price. The condition was an unreasonable one. Suppose, said he, a merchant was told by Government, you may import as many goods as you please, but if you have any left at the end of the year, they must be burnt; would he not think it a tyrannical decree? The object, if he understood it rightly, was to sell the land to emigrants going into that country, at as good a price as could be got, without throwing any discouragements in the way.

Mr. HAVENS understood the operation of the bill in this way: Government does not expect much above the minimum price. He that will first bid two dollars per acre will get the land. So that, when the land shall be thought to be worth this price, it will be sold to any person who bids it. He said the effect of a clause of the same kind with that under consideration had been tried in the States of Massachusetts, New Hampshire, and Vermont, and was found ineffectual. If he thought it would answer the purpose intended, he would vote for it; but he believed it would be a clog upon the sale, without any advantage. He was of opinion the wished-for effect might be ob-



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tained in a different way, and therefore this clause was unnecessary.

Mr. HILLHOUSE thought the gentleman from Pennsylvania was mistaken with respect to what he had asserted of the practice of the New England States. He believed the amendment would have a bad effect. The way in which the part of the country which he came from was peopled, was one part at once. If this amendment was adopted, what would be the consequence? Instead of the people who go upon the land being settled compactly, and in the neighborhood of each other, they will spread themselves over the face of the whole country, without the power of assisting or defending each other. He did not think this regulation would prevent the sale of a single acre, but lower the price, and the forfeiture never had, and never would be enforced. Indeed, it might create a war to attempt to dispossess persons of property they had paid for. He should have no objection to any clause which would confine settlers on small tracts to a particular part of the Territory.

Mr. FINDLEY observed, there were many different opinions on the subject before them. Some members thought to obtain money was the grand object; others had different views. He did not think the raising of money ought to be the leading object. He did not wish a single acre to be sold more than could be settled. He did not think the United States could have a greater advantage than to have a reserve of good land to offer persons who wish to emigrate. He thought the price fixed upon the land would be a check on the sale, and discourage emigration. Had gentlemen considered what they were about? Whether they were merchants, only to get money? Surely not; they had men, and the happiness of men in their view. On the frontier parts of the country, there is no greater unhappiness, said he, than that occasioned by the settling too widely, the settlers can neither make the necessary improvements, nor defend themselves; but by settling compactly, the inhabitants experience all the advantage of society, good schools, and everything desirable. He did not think the present amendment calculated to lower the price of the land; the price would advance by degrees. Why sell more lands than can be settled? To have them engrossed? This would be a great evil, and might have an effect on the happiness of the country, which could not be at present foreseen. The comparison betwixt a merchant selling goods, and a Government selling lands, would not hold. It is a sort of transaction which should always be kept in the hands of Government, and not in those of speculators; for, if speculators had the sale of the land, the price they would fix upon it would drive emigrants upon the territory of other countries, who hold out encouragements to receive them. The prospect of peace and security will have a considerable influence on the price of the land; he himself was fearful that the Indians would commit depredations on the frontiers.

He did not think the practice of the Eastern States practicable in this new country, but he

would have it approached to. He wished the land to be settled gradually, and that an effectual check might be put on the rage of speculators, which seemed to have no bounds. The most barren mountains were embraced by them. He thought it would be prudent to adopt the amendment as an experiment which would be perfectly safe; for, if the land was once engrossed, there would be no remedy. He said there were facts and experience in support of the proposition, and theory only against it. He should therefore vote for it, and trusted other checks would be provided before the bill passed into a law.

Mr. RUTHERFORD spoke again in favor of the amendment, and of the frontier inhabitants. Experience, he said, was vastly preferable to a fine spun theory. He hoped the mind of every member in that House was as pure as that of the great FRANKLIN, and he paid great attention to their sentiments, but experience taught him to differ from them on the present question. He had been acquainted with the frontiers, he said, fifty years, and had seen the country progress from woods to towns—he was reminded by the Chairman that there was a specific question before the Committee.) He wished, he said, to introduce his experience. He said the country would be settled, should be settled, and must be settled. The most untaught Indians were to receive information; it should be compactly settled by honest, respectable yeomanry; but will a man who has his land, his orchards, his gardens, in good order, pack up his all, and go to this new country? No; but he will send one or two of his sons. Gentlemen thought the country would not be sold. There was no doubt of it. He said the people of this country were doubled since the horrid, detestable war with England. The people were eight millions, at least; they increased like a bee hive. He was not, he said, for shutting out members of Congress from getting lots for their children, but he wished to discourage speculators.

Mr. MADISON was not surprised to hear different opinions on this question, according as members felt from the usages of the States to which they belonged. It was difficult to judge precisely betwixt different opinions, from the blanks of the bill not being filled up. Perhaps a good deal depended on the quantity of land to be offered for sale. Purchases made, he said, under a consideration that the land would be speedily settled, would be made at a higher price, and those made under an idea of a considerably distant settlement, would command a price in proportion. The principal object was to fill the Treasury as soon as possible. He believed the obliging of purchasers to settle land within a limited time would be an obstruction in the sale; but there were several considerations which ought to be weighed. If, by requiring actual settlers, they should repel a part of those who did not intend to settle themselves on the land, they might not repel others. Persons would be more ready to go into a wilderness, if they were assured of company. The amendment would have less effect in repelling large purchasers, than at first imagined. If persons knew when they

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purchased that they must provide settlers, they will see that a great advantage may arise from their enterprise, and will give a greater price. With respect to the policy of increasing emigration, there seemed to be a middle course. It would not be right, he said, to encourage emigrations, nor to throw obstacles in the way of them. He believed, with the gentleman from Pennsylvania, that if they were ever so desirous that emigrations should not take place to that country, it would not hinder them. He was opposed to a greater quantity of land being brought to market than could be settled. The consideration of settlement, he said, would be found to operate much less on the price than was supposed; he knew not whether it would increase the price. But as the subject was important, and greater light might be thrown upon the subject hereafter, he would wish the forfeiture of the land to be struck out, and left to be modified by the select committee.

Mr. HARPER said, when the amendment was first proposed, he thought it a good one; but, on more mature consideration, he found it would not only fail in producing the effect intended, but be pregnant with evil. The good effects proposed by the amendment were to restrict the quantity of land sold, and to accommodate that class of settlers who may be in want of land at a low price. The first object was of great importance. But does it not appear that, by limiting the quantity of land sold, it would have an effect to decrease the competition? Decreasing the competition will not decrease the quantity sold, but the price; for when the competition is greatest, the price will be highest. But if you subtract a certain number of purchasers, you leave the market open to a few bidders, you will get the land at a less price. The amendment must, therefore, produce a disadvantageous effect, as the same quantity of land will be sold, and less money produced. The next beneficial consideration was, to accommodate those persons who want lands, but cannot afford a high price. A certain proportion of citizens every year emigrate: some of them will be able to purchase, others must either obtain land at a low price or on long credit. If the sale be left unfettered, the competition will be increased by persons purchasing, who will be willing to accommodate this latter class of persons. As to that class, who purchase with a view of settlement, they can accommodate themselves. Persons, he said, who purchase at a high price, without this amendment, will be induced to settle the land as soon as possible. The amendment will tend to scatter settlers over the whole country; for if purchasers get land in quite opposite parts of the Territory, they will be obliged to settle it, whereas a person who might purchase lands at two dollars an acre in distant parts of the country, might not be very desirous of having it immediately settled. He believed these restrictions had been tried in different States, and it was found impossible to carry them into effect. If this was so, all the inconveniences of them would be experienced, and the proposed benefits lost. But he believed it was not the object of Government to

settle the whole of that country at present, as there remains yet much unappropriated land in the Atlantic States, which is in want of settlers. He believed when land could be purchased, for the purpose of actual cultivation, at two dollars an acre, it was a proof there was no want of land. And there was a certain proportion of population, he said, which was necessary to the happiness of society. While lands, therefore, could be purchased at this price in the neighborhood, he should not be for sending people into the back country. He was, on these accounts, against the amendment.

Mr. KITTEA thought the best price might be obtained by competition, and that driving out of the market many purchasers, would not increase the price of the land. Gentlemen have said that money is not the object, but settlement. Perhaps it was not correct to say that universal experience was in support of the present amendment. With respect to the State of Pennsylvania, the proprietors had never fettered land with conditions of this sort. It was true, they did at one particular time give improvers a pre-emption right, which was done to encourage emigrants from neighboring States, but, being found an injurious policy, it was given up. Since the Revolution, there was only one instance in which restrictions were made. He saw many evils that would arise from persons purchasing lands on the other side of the Alleghany mountains, as there were many persons at present settled on lands there. This kind of bounty, to encourage emigration, was not good policy. He said there were millions of acres in this State yet to be disposed of. He thought it necessary to mention these facts.

Mr. FINDLEY went over the history of the settlement of Pennsylvania, in order to support the propriety of the proposed amendment, and to controvert some of the statements of the last speaker.

Mr. KITTEA said, it was agreed that a provision should be made that, in case of an Indian war, land should not be liable to forfeiture for want of settlement. This, it might be seen, would be a motive for purchasers to excite an Indian war.

The motion being put, it was lost, only twenty-two members appearing in favor of it.

Mr. NICHOLAS proposed to strike out the fourth section, and insert a clause for extending the time of payment to one quarter of the amount in hand, and one quarter each of the three succeeding years; which, after a few observations, was agreed to, with the amendment of a blank instead of the word *quarter*.

Mr. HARPER proposed the following resolution:

"Resolved, That payment shall be received for lands purchased in pursuance of this act, in certificates of such parts of the Public Debt as bear a present interest of six per cent.:"

Which, after a number of observations from different members, was negatived.

The sixth and seventh sections of the bill, on motion, were agreed to be struck out.

Mr. WILLIAMS moved to strike out the eighth



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section, which gave an opportunity to persons holding military warrants to pay them for one-seventh part of any purchase they might make of these lands, as giving too great an advantage to persons holding those warrants.

Mr. DAYTON said, it had been agreed by a former Congress, to set apart certain lands for satisfying military claims. Two millions and a half acres of that land had been taken away from the United States by the late Indian treaty, so that there was now an insufficiency to answer the claims. The committee appointed to bring in this bill thought some attention due to these claims. His opinion had been asked on the subject, and he had given it in favor of the plan proposed; and as there remains now only one million of acres, one half of which is good for little, to satisfy the military claims which was not more than half the necessary quantity, if all good, but being half of it bad, not more than one-fourth of what is necessary, he was persuaded that the committee would agree to do the claimants justice, by giving them a share in the present land. He owned he was, in some degree, interested in this subject.

Mr. KITCHELL spoke in favor of retaining this section.

Mr. WILLIAMS had no objection to grant the bounties mentioned, but it was never intended, he said, that these warrants should have the very best parts of this land. Suppose land sold for seven dollars an acre, (which he believed it would,) in every 700 acres, 100 would be paid for in warrants, which the soldiers had sold for a mere trifle. The honorable gentleman had said he felt himself interested. He, also, felt interested, but he wished to legislate for the whole. If there be not land enough set out, let more be appropriated; but to take one-seventh part of the price of this land in warrants, was giving a greater advantage to holders of warrants than ought to be given. He wished Government to be perfectly faithful, but he did not wish speculators to have an unreasonable advantage.

Mr. DAYTON said the plan proposed by the gentleman who spoke last would be more expensive than that proposed by the present bill, as two millions of good land must be set apart for the purpose. What does the argument, of military warrants covering land worth seven dollars an acre, amount to? If the purchaser, who had obtained military warrants from soldiers at a low price, comes into the market to buy these lands, will he not give more for them, knowing that his warrants will be taken in part payment, and thereby increase the price of the land? The fact was, he said, that whenever there were any alterations proposed, with respect to the late Army, they have always been injured. He referred to several instances as proof of his assertion.

Mr. HARPER said, that he was in favor of the section remaining in the bill, and upon the same ground as the mover alleged for striking it out, viz: for the advantage of persons holding military warrants. He thought the soldiers in the late Army had received too little recompense, and he

was glad when an opportunity presented itself of doing them justice: That these warrants should be received as part of purchases, would be advantageous to the sale of land, render the warrants valuable, and be a small reward for past services. Instead of voting to strike out, he should be for enlarging the provision, so as to give the holders, particularly original holders, the greatest advantage.

Mr. FINDLEY said, if he thought it would do service to soldiers, he should not object to the clause in the bill, but he did not know a single soldier who had one of them. He said there was already land appropriated for the purpose, and if not enough, he was willing to appropriate more. This is not the first time, he said, that they had heard the claims of soldiers, when the money was intended to go into the pockets of speculators.

Mr. DEARBORN said, that these lands were promised many years ago, and if soldiers have sold their warrants, it has been because their patience has been exhausted in waiting the fulfilment of the engagements of Government; but there are many who have not sold their warrants. Yet, said he, if we go on to put off the satisfying of these claims, it will induce those who still have warrants, to sell them for what they can get. In laying off two millions of acres more, in addition to the one million which remains, much time and expense would be thrown away. It might be said that his situation should prevent him saying much on that question. He thought it necessary, however, to deliver his sentiments on the subject.

Mr. DAYTON said that, as it had been doubted whether any warrants were now in the hands of the original holders, he rose to inform the Committee that he had forty-seven of these warrants belonging to officers and soldiers who had earned them with their blood and wounds. They were sent to him to have them laid upon the tract of land ceded to the Indians; but, said he, if confined to the single million of acres now only appropriated, the value of the warrants is gone. Is this the way, exclaimed Mr. D., in which gentlemen, under cover of preventing the advantage of speculators, would reward their brave soldiers! He had said he was interested, so he was; for he had a warrant in his own name, but not in the way in which the gentleman from New York was interested, for he knew not that he had served in the Army. He should speak his mind on the subject, he said, but would not vote.

Mr. COOPER spoke in favor of the clause of the bill.

Mr. FINDLEY said, no one intended to injure the Army. It was time enough to complain when injury was done. Members could not be supposed to injure the Army, because they did not choose to enter upon new plans, in their opinions calculated to favor speculators.

Mr. WILLIAMS said, in a debate of this kind, where all were interested, the less said the better. He should not have risen again, had it not been doubted whether he had served in the Army. He would inform the honorable gentleman that he had so served; that, for many years, when he lay



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down on his bed, he seemed yet to have arms in his hands. He said, in the State of New York, warrants were bought for a mere trifle; he had bought some of them. All that can be demanded, was a faithful discharge of the obligation of Government. It had been said that the admission of these warrants would increase the price of the land, but he did not think so; it would increase the price of the warrants only. If, said he, a discrimination could be made between real holders and purchasers, he would go any length in satisfying the claims of the soldier.

Mr. KITCHELL spoke in favor of the clause of the bill.

The Committee now rose, reported progress, and the House adjourned.

#### THURSDAY, March 4.

It was moved and carried that the unfinished business should be postponed to take up the bill providing for a partial appropriation towards the Military Establishment for 1796, when the House resolved itself into a Committee of the Whole, and reported the bill without amendment. It afterwards went through the House, and was ordered to be engrossed for a third reading on Monday.

Mr. LIVINGSTON moved that the unfinished business might again give way, to take up the consideration of the resolution laid upon the table on Wednesday, requesting the PRESIDENT OF THE UNITED STATES to lay before the House certain documents relative to the Treaty lately concluded between this country and Great Britain; but, on being informed by members near him, that the going through the Land Office bill would take up but little time, he consented to withdraw his motion.

#### NORTHWESTERN LAND OFFICES.

The House then resolved itself into a Committee of the Whole, on the bill for establishing Land Offices for the sale of the Northwestern Territory, when the motion for striking out the section allowing military warrants to be received as one-seventh part of a purchase, being put, was lost by a considerable majority.

Mr. DAYTON (the Speaker) wished to introduce an amendment in the section respecting the allowing of a certain portion of military claims to be received, viz: to strike out the words 'one-seventh,' and introduce 'one-sixth.' His reason for making this amendment was, that he had found, on inquiry, that a great part of the million of acres mentioned yesterday, as remaining towards satisfying military claims, was also ceded.

Mr. WILLIAMS said he should oppose that amendment when the bill came before the House; for the present he should waive his objections.

Mr. DAYTON wished the gentleman, who seemed to be principally opposed to this clause, would state his objections now, that he might have an opportunity of replying to them, as, when the bill came before the House, he should be in a situa-

tion which would deprive him of the opportunity of doing so.

Mr. NICHOLAS observed that the bill would again come into a Committee of the Whole.

Mr. KITCHELL proposed to amend the motion by striking out the word "seventh" and leaving it blank; which was agreed to.

Mr. NICHOLAS moved a clause to this effect: "that the Attorney General shall superintend the Land Office at the Seat of Government of the United States, and that the PRESIDENT be authorized, by and with the advice and consent of the Senate, to appoint an agent for the sale of the lands in the Northwestern Territory."

Mr. W. SMITH wished the motion to be divided. He had no objection to the latter part of it, but a very material one to the former. It would require consideration how far they could with propriety lay this duty upon the Attorney General, as it was not contemplated in his appointment. It would also involve personal considerations as to the fitness of the officer alluded to for the business. Besides, he said, it would be interfering with the duties of the Executive to appoint a superintendent under this bill—a power which, he conceived, was vested in the PRESIDENT to nominate and the Senate to appoint. The Attorney General, he said, had special duties to perform, and he did not think he would have leisure sufficient to attend to this subject. Besides, not being sufficiently compensated by the United States, he was obliged to follow his own practice, with which an appointment of this kind would interfere. He thought the business of the Land Office would require all the attention of a special agent, and that it would be impossible to be transacted by any existing officer. It was true, for the first year, there might not be much to occupy an agent, but afterwards the business would be very considerable. He moved, therefore, to strike out the first part of the proposition.

Mr. NICHOLAS thought the objections urged against his motion of little weight. They went to this, that whenever Government wanted any new service performed, a new officer was to be employed, though it were not calculated to employ one-tenth part of a person's time. If they went on multiplying officers, he said, the United States would scarcely hold them. Congress had already acted upon a similar plan to that which he proposed with respect to the Sinking Fund. The office, he said, would be a mere superintendence. But they were told that, though there was not business at present, there would be sufficient to employ an agent wholly a year or two hence. He would say that the officer he mentioned was competent to the duties. It had been said that he had not sufficient emolument. Suppose, then, they were to add to it \$1,000 or \$1,100 for doing this new business. To this, he said, he would pledge himself, that he would do the business well, or say he could not do it.

Mr. VAN ALLEN observed that it had been said, that though the business will not at present fully employ an agent, it will do so hereafter. He thought it never would be sufficient to employ a

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special agent. If the present motion did not prevail, (which he wished might not,) he read one which he intended to move in its place. He was of opinion that all money paid for land should be paid into the Treasury of the United States, and that the Secretary of State, by keeping an additional clerk, might superintend the business. He did not think there was either occasion for two officers, or for one; but that the business would be much cheaper and more regularly transacted in the way he proposed.

Mr. NICHOLAS said his only view was to prevent a special officer from being appointed. He had no objection to leave the officer a blank, so that any existing officer might be employed.

Mr. W. SMITH said his objections were stronger than before to the motion; for, if any officer was employed, he would prefer the Attorney General, but objected to the House filling the office at all—it was not their business. He would much rather agree to the proposition of the gentleman from New York. The gentleman from Virginia had referred to the Commissioners of the Sinking Fund as a proof of the interference of that House in the appointment of officers. There was a material difference between the two cases, though he did not approve of the practice in that instance. He understood they were to give a salary, declare who should be superintendent, and, by saving a few hundred dollars, perhaps have the business ill done. If the salary of the Attorney General was not sufficient, he would consent to give him more. But, said he, does not the present proposition lead to a species of favoritism, of selecting particular officers for duties, to increase their salaries? He wished to have the business done either in the Department of State, or appoint a special officer to do it.

Mr. FINDLEY thought the business of the Land Office ought not to be connected with that of the Attorney General; for, said he, it might happen that the Attorney General would be wanted to prosecute the agent, which, if they were united in one person, it would be seen could not be done. It would be best, he was of opinion, to lay the duty on the Treasury or Secretary of State.

Mr. W. LYMAN saw nothing inconsistent in laying the duty upon some existing officer, as there could not be sufficient business for a special agent. He mentioned several instances in which this practice had been followed. Indeed, he said, it was the first time he had ever heard of the principle being controverted. He did not know whether the business might be referred to the Commissioner of the Revenue, if the Attorney General declined it.

Mr. GALLATIN apprehended that the objection of the gentleman from South Carolina to the motion went more to the manner than the substance. His objection is, that it is an assumption of power in this House to appoint an officer. No motion, he said, had been made to strike out the first section of the bill. That section goes to the establishment of two offices. [The Chairman said that the first section of the bill had been passed over by consent, but he understood it was to undergo

amendment.] Notwithstanding that, Mr. G. said, it was at present a part of the bill. It appoints officers. He believed that House had no right to create new officers, but they might lay new duties upon old officers. The PRESIDENT had not only the power to appoint, but to remove officers; and, therefore, if he thinks the officer incompetent to fulfil an office he may remove him. The motion of the gentleman from Virginia was not so much to appoint a new officer as to lay new duties upon some existing officer. He wished an alteration to take place in the motion so as to conform to that idea.

Mr. NICHOLAS acknowledged the justness of the last member's observations, and said, the first section remaining in the bill was the cause of his putting his motion in the form in which he brought it forward.

The motion for striking out a part of Mr. NICHOLAS's motion was put and negatived; and, on the original motion being put, it was lost—there being for it 35, against it 38.

Mr. KITTEBA moved the following clause to the second section: "Provided that the real, and not the magnetical points shall govern the survey."

Mr. VAN ALLEN thought that this amendment would make the survey liable to many difficulties.

Mr. KITTEBA said he was not a practical surveyor. He had however conferred with men very able to give him information on the subject, and was informed that this method of surveying would be of essential service. The lines run in this way would be certain and permanent, and as easily run as magnetical ones, which were subject to the variation of particular compasses, and that other variation which takes place at different times and in different places, which has not yet been satisfactorily accounted for.

Mr. GALLATIN thought there could be no objection to the amendment. He supposed that the Surveyor General would have had this power, if it had not been provided for. He said it was impossible to survey exactly by the magnet, as they varied from each other, and from year to year.

Mr. FINDLEY hoped no one would be prevented from voting for this clause from an idea of difficulty. He said the art was so easy as to be taught to any surveyors of moderate capacity in one evening. He was, therefore, for the motion.

Mr. PAGE said, that except this plan of surveying was adopted, great confusion might be introduced into the business. He believed the plan was perfectly practicable, and would be attended with the greatest advantage. The motion was carried.

Mr. VAN ALLEN proposed a section in place of the first, which, after some discussion and alteration, finally took the following form:

"Be it enacted, &c., That a Surveyor General shall be appointed, whose duty it shall be to engage a sufficient number of skilful and expert surveyors, to enable him on or before the — day of — to ascertain the outline of all that part of the land lying Northwest of the river Ohio, in which the title of the Indian tribes is extinct, and which have not already been disposed of by the United States, and to lay out the same in manner hereafter directed."



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*Treaty with Great Britain.*

[MARCH, 1796.]

The Committee having gone through the bill, rose and reported the bill with its amendments. The House then took it up, and went through the bill and amendments, which were all agreed to, without debate, except that appointing the method of surveying, which met with considerable opposition, but which was finally agreed to.

The bill was then recommitted, and four members added to the select committee to whom it was referred.

#### COMPENSATION TO MEMBERS, &c.

A communication was received from the Senate, with a bill, which originated there, for the relief of persons imprisoned for debt; which was read a first time. Also, the bill for allowing compensation to members of both Houses, &c., which they had agreed to with one amendment, viz: the striking out the word *next*, and inserting in its place *in the present year*.

#### REGULARITY OF MAILS.

Mr. W. SMITH said frequent complaints had been made of the miscarriage of letters to and from the Southern States, and it was of considerable consequence that these miscarriages should be remedied. He believed the Eastern mails were very regular, and it was a desirable thing to have the Southern equally so. In order to inquire into these complaints, he proposed a resolution to the following effect, which he wished to be referred to the proper committee:

"Resolved, That the committee to whom is referred the business relative to Post-Offices and Post Roads be directed to institute an inquiry whether any, and what, impediments exist in the conveyance of the Southern Mail, and, if any, the cause thereof."

This resolution was agreed to.

#### THE SON OF LAFAYETTE.

Mr. LIVINGSTON laid a resolution to the following effect on the table:

"Resolved, That a committee be appointed to inquire whether the son of Major General Lafayette be within the United States, and also whether any, and what, provision may be necessary for his support."

A resolution was also laid on the table respecting a tract of land purchased by John Cleves Symmes, in the Northwestern Territory.

#### MONDAY, March 7.

A petition of the proprietors of a glass manufactory of Boston, praying for a bounty, or such other assistance as Congress might please, for the encouragement of their manufacture, and an additional duty on all window glass imported above a certain size, was read and referred to the Committee of Manufactures and Commerce.

A communication from the Secretary of the Treasury, enclosing certain statements in pursuance of resolutions of the House, prepared by the Commissioners of the Revenue, respecting the Internal Revenues of the United States, with his report explanatory thereof, was read and ordered to be printed.

The bill for making a partial appropriation for the Military Establishment of 1796, was read a third time and passed.

The bill for the relief of persons imprisoned for debt, was read a second time, and ordered to be committed to a Committee of the Whole.

Mr. TRACY moved that several reports of the Committee of Claims on the cases of invalids, might be taken up, in preference to the unfinished business before the House.

#### AMERICAN SEAMEN.

Mr. HARPER thought it necessary to make a correction of what he had said on the debate respecting the subject of American sailors. He had said that Mr. Cutting had never released one seaman, whereas he has since found by a report on the subject, that he obtained the release of many. He had also seen a copy of a letter from Major Pinckney, in which it is said that considerable services were done by him to American seamen. He mentioned these circumstances in order to do away any impressions that might have been made by his assertion in the late debate.

#### THE TREATY WITH GREAT BRITAIN.

Mr. LIVINGSTON wished, before that business was gone into, to take up the consideration of the resolution which he laid upon the table some days ago respecting the gaining of information from the PRESIDENT on the subject of the Treaty; but if the House did not wish immediately to take up the subject, he hoped he might be permitted to make an amendment to the resolution, which had been suggested to him as proper, by gentlemen for whose opinion he had a high respect, in order to prevent any embarrassment in the Executive on account of any papers which he might not think proper to give up as relating to some existing negotiation; he therefore proposed the following exception to follow the resolution:

"— excepting such of said papers as any existing negotiation may render improper to be disclosed."

After a few observations from different members on the propriety of taking up the consideration of the resolution, it was determined first to go into the business proposed by Mr. TRACY, and the amended resolution was laid on the table.

#### CLAIMS OF INVALIDS.

The House having formed itself into a Committee of the Whole, the report of the Committee of Claims on the cases of invalids, which allows them such a proportion of relief as their different cases appeared to merit, was read and agreed to.

Mr. TRACY said that the committee had allowed a number of claims, though claimants had not in every instance complied with the necessary regulations in every particular, being of opinion that the failures had not arisen from any intention of evading the law, but from a want of knowledge. Considering that the testimony which they had provided must have been attended with much difficulty and some expense, and that as the law soon ceased to exist no further claims could be made, they thought it best to place them on the list.

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and to insert 160 in their place, so as to reduce all the 640-acre lots into lots of 160 acres each. The motion was negatived without debate.

The third section was amended by fixing that all the lands west of the Great Miami should be sold at Cincinnati, and the rest at Marietta.

No amendment in the fourth section; in the fifth, Mr. SARGREAVES proposed, instead of a forfeiture of land in a failure of non-payment, to take the usual security of bond and mortgage. This amendment was opposed by Messrs. W. SMITH, NICHOLAS, HARTLEY, SEDGWICK, DAYTON, and WILLIAMS. Negatived.

An amendment, that a deposit of five per cent. on that part of the purchase-money for which credit was to be given, should be made at the time of sale, was agreed to.

The Committee then rose, and had leave to sit again.

A communication was received from the Secretary of the Treasury with a letter from the Comptroller, with an account of the salaries paid to the officers employed in receiving the duties on imports and tonnage. Referred to the Committee of Commerce and Manufactures.

TUESDAY, April 5.

The House took up the amendments of the Senate to the Indian trading-house bill, and resolved to insist upon their disagreement to the Senate's amendments.

*Ordered*, That a Committee of Conference be appointed to confer with the Senate on the subject-matter thereof.

#### LAND OFFICES NORTHWEST OF THE OHIO.

The House, in Committee of the Whole, again took up the Land Office bill.

The 6th, 7th, 8th, and 9th sections of the bill were agreed to, with a few amendments of little consequence.

Mr. WILLIAMS moved that the 10th clause (which enacted that military warrants should be allowed to be paid for one-seventh part of purchase of land) should be struck out. He said he had on a former occasion given his reasons for wishing this clause to be struck out, and he believed there was no necessity for repeating them. If there were any objections to the measure, he should be glad to hear them.

Mr. NICHOLAS hoped the clause would be struck out. It would be best that a tract of land should be laid off by itself upon which these warrants might be laid, as, in the way proposed originally, six millions of acres must be sold before the warrants would be satisfied.

Mr. DAYTON (the Speaker) said, it would be best that the clause should be struck out, not because it offered a better chance to the military warrants (which was the ground of objection with the gentleman from New York) but as worse than any other. On consulting with persons who had earned and held these warrants, he found it would be better that a tract of land should be set apart for them; as it would be likely that it would take

them ten years to locate their warrants by the mode prescribed in the bill, as they could only be laid out in proportion to the quantity of land sold. He hoped the men who held these warrants would, at length, have justice done them. The tract which it was proposed to appropriate for them was land of a middle quality, lying between the land of the Ohio Company and Sciota river. This seemed to be approved, and he was, therefore, for striking out the clause.

Mr. WILLIAMS said, it mattered not to him from what motive the clause was struck out; if it was struck out, he knew it would be of considerable advantage to the sale. Agreed to.

Mr. CRABB wished to introduce an amendment in the second clause, viz: "that one half of the 640 lots should be sold in lots of 160 acres each." Several members observed, the sense of the House had been taken upon the question yesterday.

Mr. HOLLAND said the present amendment was not a similar question with that of yesterday, but would, in some degree, meet the wishes of gentlemen who opposed it, as this proposition only contemplated one-half of the six hundred and forty acre lots to be divided, whereas the former motion proposed that the whole should be so divided. The principal objects of the bill were to aid the revenue, and one other object ought to be to accommodate real settlers in preference to those who purchased with a view of selling again. This amendment, he trusted, would tend to both those objects. Few men who would be inclined to settle in that country would have so much money as would purchase six hundred and forty acres, and the clause directing a forfeiture of the land would prevent association, as in case of a default in any of their associates the rest would be liable to lose the land they had purchased, and the money they had paid. The amendment proposed would certainly increase competition, and, consequently, the price of the land; and that it would accommodate a large body of men, who would otherwise be obliged to purchase at second-hand, was also evident. It would have another good tendency, viz: to prevent monopoly, which ought not to be lost sight of, as it had ever been held by writers as dangerous to the existence of free Governments. And, what would be allowed to be very desirable, it would accommodate, as much as possible, the poorer class of their citizens—a class of men who were the most valuable in a community, because it was upon them that they could chiefly rely in cases of emergency, for defence, and, therefore, they ought to be accommodated and made happy; to be put into a situation in which they might exercise their own will, which they would not be at liberty to do if they were obliged to become tenants to others. To live in that dependent way had a tendency to vitiate and debase their minds, instead of making them free, enlightened, and independent. By this amendment, this class of citizens would be enabled to become possessed of real property—a situation incident to freedom, and desired by all. As the committee were tired with the business, and their



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minds made up, he did not wish to trespass on their patience. He was a friend of the bill, and his only wish was that it might so pass as to give general satisfaction. If this amendment did not take place, he knew the bill would be reprobated by many. He did not wish particularly to encourage adventurers to that country, but he wished every class of citizens, who had a desire to purchase this land, to have a fair opportunity of purchasing, in proportion to their capital, of the Government, and not from private persons. He wished mankind to be as independent as possible. He did not like the idea thrown out, that these people were likely to fall off from this Government. He thought the peace, and happiness, and attachment of the people, would be more likely to be secured, when the land was occupied by real proprietors, than if possessed by persons who were subject, by being tenants, to the will of others. He thought it a curious idea that had been thrown out, that lest these settlers should become too independent, that the bill should so pass as to produce sparse settlements, lest they, being connected, would involve us in an Indian war. This presupposes, said he, our citizens always to be the aggressors, which he did not admit. But on the contrary, being extended thinly over a large extent of country, they would be an easy sacrifice to the savages, and render their circumstances more miserable. He hoped the amendment would prevail, without which he must be opposed to its passage, although with reluctance, as he was impressed by the necessity of an addition to the revenue.

Mr. HARTLEY thought that if this amendment was agreed to, it would change the principle of the bill. He thought the division proposed would unreasonably delay the survey and increase the expense of it; and that, as the bill now stood, persons might join together and purchase a six hundred and forty acre lot, with as much ease as they would purchase them if smaller. There was no occasion for them to go into such minutiae in the business. He had as much a wish as any one to serve the poorer class of citizens, but thought they should not carry the division farther than they had done.

Mr. VAN ALLEN hoped the amendment would prevail. It would little increase either the time or expense of surveying. The chief alteration it would make would be an increase of the number of sales; but a trifling sum put upon each lot, which would be cheerfully paid, would more than recompense for it.

Mr. COOPER hoped the amendment would not prevail. The intention, it was said, was to accommodate poor men; but, did practice tell them that poor men would buy these lots when divided? He referred to sales of land in the States of Pennsylvania and New York, where, though land was sold in small lots, there were not twenty instances of farmers buying it. The moneyed men had always been the purchasers at those sales, and he apprehended it would be the case in the sale of this land.

Mr. CLAIBORNE was in favor of the amendment.

He did not think there would be any considerable expense attending it. He thought the more the lands were divided the greater would be the competition; and if this were not the case, he was apprehensive that though land might be worth six dollars an acre, they would not sell for more than two. He was, therefore, for so dividing the land as that speculators might not have it in their power to play into each other's hands.

Mr. CRAN said he was induced to bring forward this amendment, because he did not believe, as the bill stood, that one-half their citizens who might wish to become purchasers and actual settlers of these lands, would be accommodated by the present provisions of the bill. The poor man, he said, was more likely to go into that country than the rich, but he insisted that the bill, as it now stood, was a prohibition to all poor men acquiring these lands, and he had heard no argument to convince him the amendment would not be a good one in point of policy as well as justice. Gentlemen had said poor men may join together and so purchase; but there were difficulties attending such associations. A man must not only look to his own resources, but to his associators' resources and integrity, lest by a failure in completing their purchase, the land should revert to the Union. This apprehension would prevent in a great degree such associations. The dividing of the land into small lots would put it into the possession of real proprietors, and have a tendency to make good Republicans instead of servile tenants dependant upon tyrannical landlords. It would not be denied, that the more land was divided and subdivided the stronger would be the settlement, and the more firmly would be the people's attachment to Government; for it was well known that the strength of a country did not so much consist in its great extent as in its compactness of settlements and the attachment of the people to the Government. By this means, he said, encouragement would be given to useful, industrious men, and it would not be in the power of a few men to engross the whole.

Mr. C. said it might even require two or more poor men to purchase one hundred and sixty acres, and this, he trusted, was not a consideration too low to occupy the attention of that House. For his part he could see no reason which could be urged against passing of the amendment he proposed, since it would not only serve a valuable body of people, but would tend to get more money into their Treasury by opening the door and inviting a considerable class of citizens to market. He said there would remain one-half the land in large tracts to meet the demands of moneyed men; one-fourth in tracts of six hundred and forty acres to accommodate substantial farmers; and that House could not, he trusted, refuse the small portion asked for to accommodate the poorer class of their citizens. Some gentlemen had urged that people would never travel so far to a new country to acquire so small a portion as one hundred and sixty acres of land. He was of a different opinion. Lands had become so high in most of the old States, that the hope of acquiring possession of



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the soil, and becoming independent, was lost; and the rents of lands had risen so high, that the tenants sorely felt the oppression of their landlords, and their last hope of releasement from this oppression was by emigration to this new country, which they looked on as common property. And will this House, he exclaimed, blast this last remaining, this flattering hope, this natural and laudable desire of independence? He hoped not. One more observation, he said, he would beg leave to make, and he would conclude and leave the amendment to its fate. This observation he meant to apply to those that thought men would not emigrate to acquire and possess so small a property as this. He replied, that the poor and the oppressed had the greatest inducement of all men to emigrate. And the man must know but little of human nature indeed, that did not believe that when a man had been in a state of dependence, and by strenuous exertions of industry, rigid economy, and frugality, had saved a small sum, which would scarcely buy him a garden in the old settled countries where land is so high—has not such a man, Mr. C. said, the most cogent reasons to move to this new country where he could, with three hundred and twenty dollars, become an independent master of soil sufficient comfortably to support his family on? And give me leave, said Mr. C., to tell those gentlemen, that the man possessing one hundred and sixty acres of land, in his own right, under those circumstances, feels the sweets of it as much, and thinks himself as independent, and perhaps more happy, than the lordly nabob that holds a million, not acquired by the sweat of his brow.

Mr. WILLIAMS was in favor of the amendment, as he thought it would be productive of the best consequences, as it would encourage freeholders, and get a good price for the land. It was certainly their interest so to parcel off the land as to meet every degree of purchasers. He was at first for dividing the whole of the land into small tracts; but he believed if they laid a part of it off in one hundred and sixty acre lots it would answer every purpose. He said the dividing of half the six hundred and forty acre lots each into four parts would be attended with little expense; and whatever expense it might be, it would be more than repaid by the advanced price it would command. Besides, it was a duty incumbent upon them to accommodate every class of their citizens; by doing which they did an essential service to their country; as the best way to make a man love and serve his country was to make him interested in it. It was, therefore, much better that they should accommodate useful industrious citizens than that they should put their land into the hands of rich speculators to exercise their will upon.

Mr. COOPER again insisted that poor men never attended at any sales which had been made for the purpose of purchasing land, but that they always got it from the large purchasers.

Mr. GALLATIN hoped the amendment would pass. He did not think any solid objection had been made to it. It must be agreed, that if any number

of men, however small, would be accommodated, by dividing one-half of the six hundred and forty acre lots into lots of one hundred sixty acres each, the competition, and consequently the price of the land would be increased. The gentleman from New York [Mr. COOPER] had said there were no such men who would purchase. How did he know this? Was he informed of the number of small farmers who wished to go into that country? Certainly not. He went entirely upon supposition and analogy. He informed the House, that in the States of Pennsylvania and New York, poor men never purchased any lands in the sales which were held there. With respect to Pennsylvania, he could say the gentleman was totally mistaken. He would maintain that not more than one thousand persons in the State of Pennsylvania had purchased large tracts of land; the other seventy thousand inhabitants were mostly possessors of small tracts. The cause of its being sold in large tracts at all was the quantity offered for sale at once, and the low price at which it was sold. It was evident that by selling a part of the land in these small lots they should get a greater competition in the sales; for, if a greater quantity of land be offered for sale than a certain description of men have money to pay for, though they would gladly purchase a smaller lot, they cannot become bidders for lots they are not able to pay for. The other analogy which the gentleman refers to in the State of New York, was a sale of land, at a time when the sale of land was very dull, and land was not wanted. Objections had been made to this plan of dividing, on account of the expense of surveying, and the time it would take to make the survey; both of which he thought perfectly groundless. The expense would be trifling, and would be more than repaid by a small sum put upon each farm; and the time it would consume in making the additional survey would throw no obstacle in the way of the sale. He therefore saw no objection which could be reasonably urged against this amendment.

Mr. S. SMITH thought the same question had been negatived yesterday. If the mover would alter the size of the lots to three hundred and twenty, instead of one hundred and sixty acres, he would vote for the amendment.

Mr. NICHOLAS hoped the amendment would not prevail. He did not believe it would be of any real use. He need not say that he was as much a friend to the poor man, and of a Republican Government, as any man. But he did not believe, except it was the few persons already in that country, that the proposed division would accommodate one man. If the gentlemen would consider what was necessary to be done before a man became purchaser of this land, they must be convinced of the truth of his assertion. A man intending to purchase must first go and explore the country, in order to find out a piece of land which would suit him; and it would not be sufficient to fix on one particular spot, because others might want the same. The uncertainty of vendue would also prevent many from going into the country to make the necessary examinations.

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Persons of small property would rather wait till the sale was over, and the land come to be laid out and divided into farms. The persons whom the mover and supporters of the present amendment had in view would not embrace the offer meant to be held out to them. He did not think one such person would attend the sale. The additional expense of the survey, he said, would not be less than two hundred dollars on every township. This was a certain expense which he thought they ought not to go into for the possibility of accommodating a small number of purchasers. He hoped the proposition would not be agreed to, as there would be an additional expense attending the survey of fifty thousand dollars, and he believed it would not be repaid by the advantage of the proposed sales.

Mr. FINDLEY said, if he could believe the expense of surveying would be so great as had been stated, he would never agree to a Land Office being opened at all. If the land was offered in such parcels as that farmers could only become purchasers at second-hand, he did not think the land would be sold, as the best land in the State of Pennsylvania was now offered at that price. But if it were only the few in the neighborhood of these lands who would be accommodated by the proposed division of these lands into small lots, it was very desirable it should be done; for these few, he believed, were several thousands, who had built and made improvements upon the land, and to remove whom would be a task which he was sure the Government would not willingly undertake. Would it not, therefore, be very proper to divide the land in such a manner as that these present occupiers may become purchasers? The present rage for going into that country was great. Land and provisions had become high in the Atlantic States, and some persons were so desirous of emigrating, that, if they could not go upon this land, they might be inclined to go out of the Territory of the United States. Gentlemen say they ought to be certain there would be purchasers before they thus parcelled out the land. He thought the probability was very much on their side, and no gentleman could be certain there would not be purchasers for small lots. Persons were more generally inquiring for 100-acre tracts than others, and it behooved them to provide for such persons. The gentleman from New York [Mr. COOPER] had made frequent allusions to the State of Pennsylvania. When the land in that State was sold it was generally in the power of the Indians, and was disposed of in large tracts; but in that part of the country in which he lived, few farmers had more than 300 acres. But the law for dividing that land gave a tone to the settlement of the country. There were very few large tracts in Pennsylvania. He was desirous they should give a tone to the settlement of this country. The smaller the tracts were made, the more saleable they would be. Great numbers of persons were going to that country, and others would follow. It was improbable that rich land-holders would go there: the emigrants would be chiefly of the poorer class. The additional expense of surveying would be repaid by

a small addition of fee to the 160-acre lots. Tracts of this size, he said, would command a higher price. He should wish that there might be a portion of the land in tracts of half a mile square, or 320 acres. He thought lots of both sizes might be made, and that would meet the ideas of the gentleman from Maryland.

Mr. VAN ALLEN and Mr. NICHOLAS said a few words upon the expense—the former insisting that it could not be anything like that stated by the latter.

Mr. MILLEDGE thought there was no necessity for taking up the time of the Committee any longer on the subject: he believed there was not a member who had not made up his mind.

Mr. MADISON was sorry to add any observations on the subject, after what had fallen from the gentleman from New Jersey; but he thought the arguments which had been used in favor of the proposed amendment had great weight. If the lots of one mile square could be easily divided into four, (which it appeared to him they might,) he could see no reasonable objection to the measure; for, if it could accommodate any number of real occupiers, it was desirable that it should be done. The expense of exploring the country had been urged as an objection; but it occurred to him that a number of persons would go and explore the country without an intention of returning, and consequently the expense of their journey could be reckoned as nothing. Whether so large a portion of the country as gentlemen expected would be settled in this way, he should doubt; but still, he thought, attention was due to them. And he found this to be the opinion of men who lived in that part of the country, and were conversant in the business of dividing and selling lands. He was not sure whether the amendment was worded in the best way possible.

Mr. HARTLEY again objected to the division of the land into small lots, on the ground of expense and the time it would take to lay them out. He added, that the Senate would not agree to this division, if it were to pass that House.

Mr. HAVENS was surprised to hear the amendment objected to on the ground of expense: he said the expense would be trifling. The surveyors would only have to mark every half mile, and to run the same line on the map.

Mr. VAN ALLEN said, that every objection to expense might be obviated by an amendment that the land should be divided on the map without running the lines.

Mr. COOPER spoke again in opposition to the motion, and said they might as well lay out garden spots as propose these small lots.

Mr. HEISTEN hoped the bill, thus modified, would pass; and that, when the interest of the Treasury, and those of men most likely to become settlers were united, there would be but one opinion upon the subject. The gentleman from Maryland had said that application had been made to him on the subject; and he could say that many such had been made to him by persons who wished to go into that country. The land should be laid off in tracts suitable to the pockets of these people, in



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order that they may become land-owners in common with others. There were many persons without the bar of the House that could give information on the subject, if it were necessary. Some might wish to purchase a mile square, some half a mile, and a greater number 160 acres. It would be the interest of Government to accommodate them all, and he hoped no objection would be made to the present amendment.

Mr. VENABLE wished the lines might be so run as that no dispute might arise hereafter. He was in favor of the principle of the amendment: it would accommodate more people than any other clause in the bill. It would require from 300 to 500 dollars to purchase one of these small tracts, which was no inconsiderable sum. He doubted not a number of farmers' sons would go into that country without any intention of returning, and therefore no expense could be reckoned on their exploring the country. It was right these persons should be accommodated; nor did he think it would be found either difficult or expensive to carry the amendment into effect.

The amendment was put and carried.

Mr. VAN ALLEN observed, that the selling one-half the land in lots of three miles square, or 5,760 acres, as contemplated by the bill, appeared to him to be a measure replete with such evident advantages to that part of the wealthy class of citizens whom they had been in the habit of styling speculators, that he conceived it his duty to state his objections to it, and, if in his power, to obtain an alteration. He moved an amendment which went to selling no larger lots than 640 acres.

He considered the land now about to be sold as the joint and common property of every citizen in the United States, and that therefore it ought to be disposed of in such manner as would best promote the general interest of the whole community: that, if this idea was a correct one, it would naturally lead to an inquiry what would be such disposition: the result of which he believed would be, first, to accommodate actual settlers; and, secondly, to bring money into the Treasury; and added, that, as he conceived the first to be the greatest object, it ought to be attended to, even if it would in some degree require a sacrifice of the other. But he hoped it would not be opposed, if it could be shown that it might be accomplished without any additional expense or loss to the public.

He observed, that the bill directed the whole tract to be laid out into townships of six miles square; to subdivide one-half of them alternately into lots of 640 acres; and by an amendment one-half of those lots were to be subdivided on the map into lots of 160 acres; that the remaining half of the townships were also to be divided on the map into four equal lots of 5,760 acres, for the purpose of selling them in the above described lots.

He stated, that, by actually running and marking the lines round every four lots that were to be sold, they could be separately granted with as much accuracy and certainty of description as if each had been fully surveyed; that, upon this plan, the whole of the land might be laid out and sold—

the one-fourth part in lots of 160 acres, and all the rest in lots of 640 acres—with precisely the same surveying which was now directed to be performed; and that, therefore, no additional expense could be incurred.

He then adverted to the sales, and observed, that actual settlers might become purchasers from the Government of lots of 160 and of 640 acres; that none would be prohibited from purchasing; that of course the competition would be increased, and, he believed, the land sell best; that as the large lots would, at the minimum price, amount to 11,520 dollars, settlers were by no means likely to become purchasers, as it was presumable few could command such a sum, and therefore they were as effectually prohibited as if a clause to that effect had been inserted in the bill; that the competition would of course be lessened, and the land purchased chiefly, if not altogether, by speculators, and consequently sell for a less price. One reason which had been assigned for this measure was, that all purchasers might be accommodated. He was willing to accommodate all such as were to be settlers, but no others. No one man, he thought, wanted to purchase so large a lot for his own actual improvement.

It had been said, the price fixed upon the land would prevent speculation. He believed that might be the case if the fixed price was the full value, or so nearly so, as not to afford a profit. But these gentlemen understood figures, and considered more the per centage they could make than the high or low price they paid for an article.

It had been frequently said, and he believed, this was an excellent tract of land; that some of it would sell at from three to eight dollars per acre; and if so, would it not, he asked, afford a handsome profit?

He said, it was fair to presume no land would be purchased to sell again, which could not afford a reasonable prospect of at least 25 per cent. profit. This, at the lowest stated price, would be half a dollar per acre; that about five millions of acres were contemplated to be sold in large lots, which, at this rate, would eventually be a loss of two millions five hundred thousand dollars, besides the difference of the granting fees, (which he made no doubt would nett a profit,) and answer no other purpose than that of enriching individuals; that, to sell the land when it was not wanted for actual settlement, or in a manner which would preclude settlers from becoming purchasers, would be making a sacrifice: that, he thought, could only be justifiable under peculiar circumstances, such as did not now exist; that it was but another way of paying a high rate of interest, and establishing a bad precedent; that, to sell the land in such large lots would, he thought, operate as an indirect tax upon the cultivator—of so much at least as the small lots would sell per acre more than the large—not to say anything about the rise of the land, which would be increased in proportion to the settlements they made, without benefiting the Government. In short, he considered it as an act of favoritism towards that class of citizens, for which he could see no reason, unless it was their having



paid a considerable proportion of the Domestic Debt to the original holders. But he never heard they had been sufferers by it, and he presumed this would not be assigned as the reason.

Mr. V. A. concluded by observing that he did not, from anything he had said, wish to be considered as an advocate for an Agrarian law. He disavowed any such principle, but did not hesitate to acknowledge himself a friend to equality—at least so far as it respects the rights of individuals—and hoped, that if ever any discrimination between different classes of citizens should be thought proper, the poorer and middle class would not be considered the least deserving the care and attention of Government.

The amendment of Mr. VAN ALLEN was negatived, and the Committee rose and reported the bill. The House then took it up, and all the amendments agreed to, without debate, except that for dividing half the 640-acre lots into lots of 160 acres each.

Mr. DEARBORN hoped the amendment would not be agreed to. Persons might choose out the cream of the land in these small lots, and the rest would be left on hand. In attempting to do right in the extreme, he was apprehensive they would injure the United States more than they would benefit individuals.

Mr. W. SMITH thought the amendment injured the bill, and instead of benefiting poor people, it would benefit shrewd moneyed men, who would avail themselves of this provision to lay hold of the choicest spots of land.

Mr. RUTHERFORD hoped this clause would be agreed to, as it was the only favorable clause to the real settler in the bill.

Mr. S. SMITH moved to strike out "160," and insert "320."

Mr. CRAIG hoped the amendment would not take place. If 320 acres would accommodate some persons, he was certain that 160 would accommodate more. The gentleman from South Carolina [Mr. W. SMITH] had said the original amendment would hurt the bill, but it was his opinion the bill would be greatly hurt to strike it out. Inasmuch as it had already been determined in the Committee, he did not believe the House would consent to strike it out.

Mr. COOPER said, that though the amendment would be the means of putting 10,000 dollars into his pocket as a land-buyer, yet, as a legislator, he should oppose it.

Mr. CLAIRBORNE observed, if the amendment did accommodate the gentleman with 10,000 dollars, he was of opinion he would have to pay a good price for the land, as it would be sold by auction. It had been said all the good land would be taken away, and the bad left. He said it was no matter, if they got as much for the good as the whole was worth. To destroy the amendment, would be to destroy the best part of the bill; to defeat this clause, would be to throw the land into the hands of speculators, and put it out of the power of the poor, but industrious farmers, to purchase at the first-hand.

The question was then taken by yeas and nays

upon the amendment to the amendment, which was lost, as has been stated; and then upon the original amendment, which was carried.

An additional section was added to the bill, to preserve the navigable rivers free from obstruction; and the bill was then ordered to be engrossed.

WEDNESDAY, April 6.

#### LAND OFFICES NORTHWEST OF THE OHIO.

An engrossed bill providing for the sale of the lands of the United States, in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river, was read the third time, and the blanks therein filled up.

*Resolved*, That the said bill do pass, and that the title be, "An act providing for the sale of the lands of the United States in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river."

Mr. TRACY delivered in a report from the Committee of Claims, on the petition and letter of Governor St. Clair, which recommended a law to be passed to include his and similar cases.

Mr. W. SMITH, from the Committee of Ways and Means, presented a bill making provision, in part, for the Debt due to the Bank of the United States; which was twice read, and referred to the Committee of the Whole on Monday.

A message was received from the Senate, informing the House that they had passed a bill regulating the compensation of Clerks, and asking the concurrence of the House. The bill was read twice and committed.

#### THE BRITISH TREATY.

After disposing of some petitions, the House took up the order of the day, on the Message of the PRESIDENT in answer to the resolution of the House calling for certain papers relative to the Treaty lately concluded with Great Britain; [the proceedings on which have been heretofore given.]

THURSDAY, April 7.

The House proceeded to consider the report of the Secretary of the Treasury, on the memorial of Tobias Lord and others, which lay on the table. Whereupon—

*Resolved*, That the consent of Congress be declared to such an act as the Legislature of the State of Massachusetts may judge proper to pass, for imposing a tonnage duty on vessels entering into Kennebec river, in the District of Maine, sufficient to defray the expenses incurred by Tobias Lord and others, in erecting a pier near the mouth of the said river.

*Ordered*, That a bill or bills be brought in, pursuant to the said resolution, and that the Committee of Commerce and Manufactures do prepare and bring in the same.

Mr. GOODHUE, from the Committee of Commerce and Manufactures, made a report on the resolution referred to them, respecting allowing a duty to be paid according to the quantity of spirits distilled, instead of the capacity of stills, in cases of a failure of crops; which was read twice, and

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ordered to be referred to the Committee of the Whole on Monday. It was in favor of the measure.

The committee appointed to inquire whether the Army had been regularly paid according to law, so as that no part of it had been more than two months in arrears, reported that many had been from four to six months, and some twelve months in arrears of their pay; but that, owing to some regulations having taken place in the War Department, similar failures were not likely in future to take place.

The order of the day being called for on the consideration of the PRESIDENT'S Message, the House resolved itself into a Committee of the Whole on that subject; and after debate, the question was taken upon the resolutions. [For the proceedings on which, see *ante*, page 783.]

#### NAVAL ARMAMENT.

The House then resolved itself into a Committee of the Whole, on the bill which originated in the Senate, supplementary to an act, entitled "An act to provide a Naval Armament."

Mr. NICHOLAS called for the reading of a report of a committee of that House on the subject.

It was read accordingly: it recommends that two frigates should be finished, the perishable materials sold, and the rest laid by.

Mr. W. SMITH moved to strike out the first clause of the bill, which provided for the completion of three of the frigates in order to introduce a clause providing for the finishing of all the frigates.

Mr. SWANWICK was in favor of the motion. He said it was wonderful, that notwithstanding their revenue almost wholly depended upon their commerce, no step had ever yet been taken by Government to guard it against the attacks of foreigners; on the contrary, this great source of advantage to this country constantly lay at the mercy of the European Powers. When they considered the great advantages which foreign commerce bestowed upon the nation, and the profits it afforded to individual merchants, mechanics, &c., and indirectly to the agricultural interests, ought they not to afford it every protection in their power? Surely they must conceive that this milk cow of the family, deserved more attention than had ever yet been given to her. With what horror did every description of persons throughout the Union hear of the capture of their fellow-citizens by the Algerines! How great was the effect upon the public mind! Subscriptions were everywhere raised for their relief; the sensibility entered into private families; comedians gave benefit nights to this use, and every possible exertion was made to effect their relief. Was this showing a coldness with respect to commerce, on the part of the people; No. What did the Government do? Finding that money was the only way they had of obtaining a peace with the Dey of Algiers, a peace has been purchased at an enormous price. And would it be prudent in them, immediately after this was effected, to show to the Dey of Algiers their weakness and decrepitude? that they were determined

to become less energetic in proportion as they became more rich and powerful? There was no more effectual way of encouraging this corsair, than, after determining to build six frigates, to reduce them to two or three. And what, said he, would the Powers of Europe think of us? That, whilst we were laying the foundations of new cities, and flourishing in every respect beyond calculation, when we were about building a few frigates, we were alarmed at an expense of four hundred and fifty thousand dollars. Will they not say, they are building cities and leaving them defenceless? Indeed there was no security against the bombardment of the new city, or any other of their possessions, whenever an enemy chose to undertake the business, their extensive coast being wholly defenceless. But it was said, what will six frigates do for the defence of their coast and trade? He answered, it would be laying the foundation of a navy, which they could increase as the resources of the country should make it convenient. Though we were apt to speak lightly of our own strength, we were considered as formidable abroad. The question was not, now, whether they should build six frigates; but whether, having begun them, they shall go on to finish them? If the question was on building the frigates, to answer in the negative would not show such weakness, as, in the case of having voted them, now to vote in part their discontinuance. Was this of a piece with the act they passed the other day for the relief and protection of their seamen? Which ever way he considered the subject, whether upon the principles of policy or economy, he could discover no ground for discontinuing the building of any part of the frigates. For, as to economy, if their frigates had been built, he apprehended they should have saved the very large sum which had been paid to Algiers; and the property in the country, which must be looked upon in some degree insecure at present, would be made secure from the attacks of any marauding privateer. What was a frigate? Was it not made up of materials of their own growth and manufacture? and did not the building of them employ their own citizens? They sent none of their money abroad to purchase a single article. Very contrary this to paying a million of hard dollars to a foreign Power. The farmer, the merchant, the mechanic, were all benefited by the money expended upon the building of a frigate. Nobody lost anything. But gentlemen might say, shall we lay new taxes to raise this money? Every one had an idea that money would be wanted for this purpose, and he doubted not it would be cheerfully paid. They could surely borrow money for the purpose of protecting their trade, as well as for the erection of buildings for the Government at the Federal City. But after all, it was said, they should be weak with respect to other Powers. They knew that a certain Power had got a mastery over the sea, owing to her extensive commerce; but though she had hitherto proved an overmatch for any single Power at sea, yet France, Holland, Spain, Sweden, and Denmark, have all of them respectable fleets, which,



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them, and the report was referred to a select committee to bring in a bill or bills.

Mr. SITGREAVES, Chairman of the Committee appointed to consider upon the petition of certain attorneys respecting the holding of District Courts at Yorktown and Philadelphia, reported a recommendation that that part of the act which directs the sessions to be held alternately at Philadelphia and Yorktown be repealed, &c., and some other regulations made. The report was agreed to, and a bill directed to be brought in.

The House resolved itself into a Committee of the Whole upon the report of the committee to whom was referred the Message of the President respecting the forming the Territory South of the river Ohio into a new State, by the name of Tennessee; and several documents relative thereto having been read, the Committee rose, and had leave to sit again.

A message was received from the Senate, informing the House that the Senate had agreed to the several bills for carrying into effect the four Treaties lately concluded. Two trifling amendments were made in that for carrying into effect the Treaty with Spain; which were agreed to.

The House then resolved itself into a Committee of the Whole on the bill allowing a certain compensation for horses killed in battle; which having gone through, the House took it up, and ordered it to be engrossed for a third reading.

THURSDAY, May 5.

The SPEAKER informed the House that he had received a letter from the Governor of Maryland, informing the House that an election for a member of Congress, in the place of Mr. DEVALLE, resigned, had taken place; which communication was read. The gentleman elected is RICHARD SPRING, Jr.

A report of the Attorney General, relative to the contracts of John Cleves Symmes, for certain lands in the Northwestern Territory, was twice read, and ordered to be committed to a Committee of the Whole.

The following bills were read the third time and passed, viz: for compensating Jonathan Hastings for extra services; for the relief of Samuel Browne; for the relief of Moses Myers; for authorizing a light-house on Cape Cod; for allowing compensation for horses killed in battle; for establishing several new ports of entry and delivery.

Mr. SITGREAVES reported a bill for repealing so much of the act as directs that the District Courts of Pennsylvania shall be held alternately at Philadelphia and Yorktown; which was twice read and ordered to be engrossed for a third reading.

Mr. GOODRUE, Chairman of the Committee of Commerce and Manufactures, made a report on the memorial of Sylvanus Bourne, Vice Consul at Amsterdam, for the reimbursement of two hundred and six dollars, expended in the relief of the master and crew of the ship Washington, which was wrecked on the coast of Holland, in November last; and also upon the petition from the

State of Delaware, praying that provision might be made to prevent the stealing of negroes and mulattoes. On the first case, the report was in favor of the memorialists; it was twice read, and a bill ordered to be brought in. Upon the latter, a law was recommended to be passed, and the report was committed to a Committee of the Whole.

The House resolved itself into a Committee of the Whole on the bill making provision for the payment of certain debts due to the Bank of the United States; which having gone through, the Committee rose, took it up, and it was ordered to be engrossed for a third reading.

#### ADMISSION OF TENNESSEE.

The House then resolved itself into a Committee of the Whole on the Message of the President, relative to the Tennessee country. The report of the select committee was read, as follows:

*Resolved*, That, by the authenticated documents accompanying the Message from the President of the United States to this House, on the 8th day of the present month, and by the ordinance of Congress bearing date the 13th of July, 1787, and by the law of the United States, passed on the 26th of May, 1790, it appears that the citizens of that part of the United States which has been called the Territory of the United States South of the river Ohio, and which is now formed into a State, under a Republican form of Government, by the name of Tennessee, are entitled to all the rights and privileges to which the citizens of other States in the Union are entitled under the Constitution of the United States, and that the State of Tennessee is hereby declared to be one of the sixteen United States of America."

Mr. W. SMITH rose and said he was opposed to the report. He thought the select committee had not attended to some important principles which resulted from an examination of the subject. Several questions arose in his mind, on considering it: 1st. What were the rights of the people of the Territory South of the Ohio, as secured to them by compact with the United States?— 2d. By what authority was the census to be taken in order to ascertain the requisite number of inhabitants to entitle them to a participation in the Federal compact? 3d. Had the census been fairly taken?

1st. The rights of the people of the Territory South of the Ohio were founded on the act of Congress of April, 1790, accepting the cession of North Carolina; the deed of cession, as recited in that act, ascertained the rights of the inhabitants of the ceded Territory. The fourth section of the cession stipulated that "the Territory so ceded shall be laid out and formed into a State or States," containing a suitable extent of territory; the inhabitants of which (that is, of which State) shall enjoy all the privileges set forth in the ordinance of Congress of July, 1787, for the government of the Territory Northwest of the Ohio. That ordinance was therefore to be considered as the charter of the Territory; in that were to be found the rights of its inhabitants, and their claim to a participation in the councils of the Union.



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The ordinance of July, 1787, provided that the Territory Northwest of the Ohio should, for the purposes of temporary government, be one district; subject, however, to be divided into two districts, as future circumstances may, in the opinion of Congress, make it expedient.

The ordinance then provides that when there are five thousand free male inhabitants in that Territory, the inhabitants shall be entitled to a Legislature, still however remaining subject to the government and control of Congress. It then sets forth:

"That, in order to provide for the establishment of States and permanent government in the said Territory, and for their admission into the Federal Councils on an equal footing with the original States, at as early a period as may be consistent with the general interest, it is declared that the following articles shall be considered as articles of compact between the original States and the people and States which may be formed therein, shall forever remain a part of the Confederacy of the United States, subject to the articles of Confederation, and to such alterations as shall be constitutionally made, and to all the acts and ordinances of the United States."

"ART. 5. There shall be formed in the said Territory not less than three nor more than five States; and whenever any of the said States shall have sixty thousand free inhabitants therein, such State shall be admitted, by its delegates, into the Congress of the United States, on an equal footing with the original States, in all respects whatever, and shall be at liberty to form a permanent Constitution and State Government."

The act of Congress of May, 1790, establishing a Government for the ceded Territory South of the Ohio, declares that the said Territory, for the purposes of temporary government, shall be one district, the inhabitants of which shall enjoy all the privileges set forth in the ordinance of the late Congress for the government of the Territory Northwest of the Ohio; and that the government of the Territory South of the Ohio shall be similar to that which is now exercised in the Territory Northwest of the Ohio.

Mr. S. said, from a review of these acts and ordinances, the following deduction seemed clearly to result: that the inhabitants of the Territory Northwest or South of the Ohio could not claim an admission into the Federal Councils until the Territory was previously formed into one or more States. Secondly, that Congress was alone competent to form the Territory into one or more States. This conclusion, he thought, obviously flowed from the terms of the compact, "States shall be formed in the said Territory;" and whenever any of the said States shall have sixty thousand free inhabitants therein, such State shall be admitted, &c. The privilege of admission into the Union, and the number of sixty thousand free inhabitants, have reference to the Territory only in its capacity as a State; they are only applicable to a State or States previously formed by Congress. The first step then to be taken was for Congress to determine whether the Territory South of the Ohio should be formed into one or more States, and to fix the boundary of such State or States.

It was clear, Mr. S. said, that Congress might

subdivide that Territory into two or more States; this was evident, both from the terms of the compact in the ordinance of 1787, which declares "that States shall be formed in the said Territory," and from the act of cession of 1790, which declares that "the Territory so ceded shall be laid out and formed into a State or States, containing a suitable extent of territory." It was no less clear that the number of sixty thousand free inhabitants had no reference to the Territory, in its present character as a Territory under the government of Congress, but as a State, previously formed by Congress. Allowing that there were sixty thousand inhabitants in the Southern Territory, Congress might, undoubtedly, by dividing it into two States, leave less than sixty thousand inhabitants in either, and consequently deprive them of any claim whatever to an admission into the Union at this time.

Both the ordinance and act of cession contemplated, first, a temporary, and after a certain period, a permanent Government; the temporary Government was to be adapted to its character as a Territory of the United States, the permanent Government was intended to apply to it when formed into a State.

2dly. By what authority is the census to be taken?

The Constitution of the United States vests in Congress the power to make all needful rules and regulations respecting the territory of the United States.

The Legislature of the Territory have, by the ordinance which is their charter, authority to make laws, in all cases, for the good government of the district, not repugnant to the principles and articles established in the ordinance.

The taking a census, the result of which was to determine whether the Territory was to remain subject to the Government of the United States or be an independent State and admitted into the Union, could never have been considered as a common act of legislation for the government of the district; it was an extraordinary case, which peculiarly required the interposition of Congress.

Their Legislative power related only to their internal concerns, and was incompetent to this great and external object. But if his reasoning on the former point was correct, the enumeration of the inhabitants was premature and of no effect; it could have no operation until Congress had formed a State, and designated its boundaries.

3dly. Had the census been fairly taken?

Mr. S. thought there were circumstances to warrant an opinion that the census was not such a one as ought to be relied on. A comparison of the act of Congress of 1790, for taking the enumeration of the inhabitants of the United States, with the act of the Southwestern Territory, would show that although the latter was generally copied from the former, yet that it pointedly deviated from it in every circumstance which would have a tendency to swell the number of inhabitants. The act of Congress spoke of "the inhabitants within the respective districts." The act of the Territory spoke of "people within the respective counties." Where the one says, "persons resident

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within," the other says, "people within;" thus carefully omitting the words "inhabitants," "resident." The act of Congress says, "that every person whose usual place of abode shall be in any family on the first Monday of August next, shall be returned as of such family." The act of the Territory says, "every person whose abode shall be in any family within the time limited by the act, shall be returned as of such family." The one says, "the name of every person who shall be an inhabitant of any district shall be inserted," &c. The other says, "every person who shall be in any county at the time of the enumeration without any settled place of residence, shall," &c. By the act of Congress, the returns are directed to be posted up, to guard against frauds. By the act of the Territory no such caution is observed.

From the peculiar period in which the census was taken, viz: from the 15th September to 15th November, the period of the greatest emigration through the territory of Kentucky and Cumberland, from the circumstance of the Sheriffs being allowed a dollar for every 200 persons they returned, from the circumstance of the number returned being just sufficient to give them two members, and from the law being so framed as to authorize the enumeration not only of all transient persons and strangers, but also of the inhabitants and travelers, several times over; it was not an uncharitable conclusion that the enumeration was not so correct as to be admitted by Congress on so solemn an occasion.

Mr. S. said he had looked into the Constitution of this new State, and he could not help observing that it carried with it the same marks of haste and inaccuracy as the rest of the proceedings. In several parts it was repugnant to the ordinance of 1787, and to the Constitution of the United States. It vested the Legislature with all powers necessary for the Legislature of a free State, without any exception of the stipulations contained in the ordinance, which in several important points control and restrict the States to be formed in the Territories in their Legislative acts; and it is evident that no limitations were intended to the power of the Legislature, because in speaking of the Executive power, such a limitation is inserted. Art. 2, section 5, says "the Governor shall be commander-in-chief of the army and navy of this State, and of the militia, except when they shall be called into the service of the United States;" thence it followed that the Legislative power was meant to be unqualified by any exception. The articles which made all lands within the Territory equally liable to taxation, which declared that no fine shall be laid on a citizen of this State exceeding fifty dollars, unless assessed by a jury, and which declared that no article manufactured of the produce of the Territory should be subject to taxation, and that respecting the navigation of the Mississippi—all seemed to clash with some of the stipulations in the ordinance and with the Constitutional rights of Congress; and though there could be no doubt that the ordinance and the Constitution of the United States were paramount to the Constitution of Tennessee, yet the articles in the latter which

had been alluded to, might give rise hereafter, if now silently acquiesced in by Congress, to disagreeable discussions.

There were several other points in this Constitution which he thought objectionable; he would only, however, notice two which occurred, namely, the right asserted to instruct their Representatives, and their declaration, "that no person who denies the being of God, or a future state of rewards and punishments, shall hold any office in the civil department of the State," thus admitting such persons to hold military offices. In making these comments, he did not mean to call in question in the least the right of the people of the Territory to frame their own Constitution and form of Government, but to show that this Constitution might, if sanctioned by any measure on the part of Congress, involve the United States hereafter in some embarrassment, and that the people of the Territory would receive no injury by a delay of the business, and by a revision of the Constitution, which was susceptible of material improvement. Indeed, in his opinion, the whole business was premature, and he could not suppress his declaration that the United States had not been on this occasion treated with that consideration and respect to which they were entitled.

He was notwithstanding, willing, if the people of the Territory were desirous of being admitted into the Union, as a separate State, to facilitate such admission, provided it were done in a Constitutional manner. It was a matter in which the whole Union were interested, as well as the people of the Territory; it was of considerable moment to the United States, that a proposition which admitted a new State to the equal rights in one important branch of Government in the affairs of the nation should be seriously considered and grounded on clear Constitutional right. In order to conform the present application to such right, he thought the following course ought to be pursued: 1st. That Congress should declare the Territory south of the Ohio a State, for the purpose of permanent Government, and designate its boundaries. 2dly. That Congress should then pass a law, directing the enumeration of the free inhabitants. 3dly. That on finding the Territory to contain 60,000 free inhabitants, such State shall be admitted into the Union. Mr. S. then read certain propositions to that effect, which he informed the Committee he should propose, if the report of the select committee should be rejected.

He concluded with remarking, that, in a few years, other States would be rising up in the Western wilderness, and claiming their right to admission, and therefore the precedent now to be established, was of very considerable importance.

Mr. HARPER was of opinion, that this was one of those subjects on which the House should not exercise too rigid a scrutiny. The question was, whether or not the Territory Southwest of the river Ohio should be admitted into the Union as a State. The people of that country, as appeared from the papers before the Committee, now wish to relinquish their Territorial Government, and become a part of the Union. He believed, that



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in all questions relative to the formation of Governments, the wish of the people ought to be gratified. He believed, that whenever it should appear to be the wish of the United States, or of any considerable portion of them, to be governed in such or such a manner, their inclination should be attended to. Upon this principle, he should always be favorably inclined towards any proposition whose object was the division of States, or to erect new States, as the people themselves, who were to be affected by such measures, might appear to desire. For, if they were not really benefited by the change, they would, at least, think they were, and their inclinations should be consulted as well as their interests, where it could be done without injury to the public.

It appeared to him doubtful whether the people of the Southwestern Territory had a right to erect themselves, by their own act, into a State: but, admitting this to be doubtful, he thought there could be no doubt that the House ought to comply with their wishes, in this particular, by supplying the defect in their powers. He was desirous, therefore, of seeing some measure adopted, which should recognise that people as a State of the Union. With respect to ascertaining the exact number of their inhabitants, for the purpose of determining how many Representatives they would become entitled to, he was of opinion a census should be taken for that purpose, under the authority of Congress. He thought their wishes ought to be our guide in the question, whether they should become a State, but when, after being erected into a State, they claim a right to a certain number of members in the national representation, this becomes a public concern, and the right ought to be ascertained under the laws of Congress, and by the rules established for apportioning representation among the other States of the Union. It was clear, that no individual State had a right to take a census by its own laws, and to ascertain the number of its own Representatives, and surely this new State could not claim greater privileges than the old ones.

It farther appeared doubtful, whether, even admitting the right of a State to take its own census, a fair one could be taken under the law of Tennessee for that purpose. He was very far from charging the people of that Territory with any improper design, but their law certainly was liable to great abuse; and when the numbers under this imperfect law were barely sufficient to entitle them to two members, he should think it very doubtful, whether they ought to be allowed that number till the right was ascertained in some less exceptionable mode.

Upon the whole, their existence as a State was one branch of the question, and the number of inhabitants, and consequent number of Representatives in that House, was another. The two points were perfectly different, and to be settled on different principles. As to their existing as a State, he would, in almost all cases, adopt it as a rule, to comply with a wish of the people themselves. They, and not we, were to be affected by the regulation. Even should any small inconve-

nience result from this admission to the other parts of the Union, there was reason, he thought, why that inconvenience should be submitted to, rather than irritate the people of this Territory, by rejecting their application under the present circumstances; but he saw no such inconvenience; to admit them into the Union, he thought, would add to its strength and resources; would increase the public happiness and prosperity. He would, therefore, advise that the State of Tennessee should be acknowledged as a member of the Union, and that a law should be passed for taking a census of its inhabitants before the next session of Congress, so as to ascertain the number of members to which it would be entitled in that House.

Mr. SENEWICK conceived that the mode of admitting, and the principles upon which the Southwestern Territory were to be admitted into the Union, were matters to be decided upon by the Legislature of the United States. The claim of that Territory to become a State of the Union, was the first instance of the kind which had come before them, and it was of importance to decide rightly, as it was establishing a principle to be acted upon hereafter. This Territory claimed to be admitted in consequence of certain acts, of an authority over which the United States had no control. This Territory claims, without your agency and without your consent, to be admitted as a State of the Union, and a representation in one branch of your Government equal to the State of Virginia, and into this branch of the Legislature, according to the census taken by her own authority. If such a claim can be made, there must be good authority for it. Till this morning, he had not thought upon the subject; but he had formed an opinion from the facts which he had looked into.

The first article on this subject was the ordinance of the old Government respecting the Northwestern Territory; by which it appeared that so soon as there were 5,000 inhabitants, they were to have a Government of their own, and to form their own Legislature, and that Legislature was to send a Representative to that House on certain conditions. It went to state certain principles, which principles should be viewed and attended to.

The fifth article, the only one of considerable importance, stated that the Territory should be formed into not less than three, nor more than five States. It goes on to say, that the boundary shall be fixed, and that whenever any of the States shall have 60,000 free inhabitants, then they shall be admitted into the Union on an equal footing with the original States. Who, according to this, was to do the act which should furnish the evidence by which the claim should be tried, to come in and act as an independent member of the Union? If the Territory or Colony itself should do it, then it was in her power, independent of all the other States, to assert her claim to be a member of the Union.

The ordinance provided also, that there should neither be slaves nor slavery tolerated in that

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Territory; but he found there were slaves to a very considerable number there. The next proceeding relative to this business was, the act of Congress of May 6, 1796, enacting that the Territory Southwest of the river Ohio should be one, and should have a Governor and Council appointed. It seems that antecedent to their claiming a right to become a State of the Union, they should be declared a State by Congress; because without this declaration it would be difficult to say whether the Territory should be one or more States.

In the act of cession of North Carolina of this Territory, a number of conditions were made necessary before the cession was to take place. One condition was, that the Territory so ceded, should be laid out and formed into a State or States. Who was to do this? Congress.

He would observe, that this Territory might exist in one or two States without the capacity of being admitted into the United States. Because that division and cognizance by the United States must precede the time of their claiming admission to the same privileges and rank with the other States. He therefore conceived it impossible that this Territory, at any period antecedent to the United States, declaring it a State or States, should possess a right to become so. Congress was to decide, and having made this decision, they were then to become a member or members of the Union, equally with the original States. Congress would, of course, refer to the cession of North Carolina to determine whether the Territory should be divided or not; and if to be divided, into how many States? and if this had been done, then to ascertain the number of inhabitants, and thereby determine whether they were entitled or not to become a State or States of the Union. The whole proceeding was to succeed the decision of the Legislature of the United States, and if this decision did not take place, they were not entitled.

The number of the people in the Territory to entitle them to become a State or States, must be of inhabitants. But he thought the observations made by the gentleman from South Carolina [Mr. W. Sumner] with respect to the census which had been taken, were worthy of notice. He did not impute bad intentions to the persons concerned; but frauds might take place, at least mistakes would, in the plan adopted for taking the census. During the time this census was taken, was the season in which there was the greatest flow of emigration into that country; and, instead of directing the inhabitants, they direct the people, within the Territory, to be taken; and instead of confining the census to be taken on a certain day, they give it a latitude of two months, so that the same men might be taken in several different counties; indeed, a man might be taken upon every acre of land in the Union. He did not say there were any unfair means used; he hoped there were not; but the mode adopted was certainly liable to objection. It was necessary that everything in this business should be perfectly fair, as the greatest abuses might here-

after be committed on the ground of an improper precedent. Why, if the people in this Territory want to come into the Union, do they not comply with the necessary means? If they were to be admitted on their present claim, it would not be from your authority, but from their own. We are to give them the same power and character with the original States, because they say they are entitled to that rank.

Mr. S. asked whether this was right and proper, and whether the interest of the United States would be safe, if they were to adopt such a practice? There were many vast tracts of territory belonging to the Union, and many States might hereafter be erected; and as it had already been determined that a small State should have as great a representation as a large one in one branch of Government, it behooved them to be careful in admitting parts of their Territory into their Union, until they had due proof of their being in every respect entitled. Neither ought the request of a few persons to be attended to on this head before a State was admitted; it should appear evident that the people in general wanted to change their state, otherwise, whilst they were attending to the wishes of a few, they might be acting contrary to those of the many.

Mr. S. concluded by saying, that he had never read the Constitution of Tennessee, nor considered the subject till that morning; but thought they ought not to depart from principle, because requested to do so.

Mr. Madison said, that no answer was necessary to the arguments of the gentleman last up, nor to those of the gentleman from South Carolina who preceded him. If they proved anything, they would go against themselves. He would make a few observations on the subject, and a few would be sufficient.

The gentleman from South Carolina seemed to think that the ordinance by which this State should be admitted into the Union, required that the Territory should first be acknowledged as a State, and then have the inhabitants of it as such numbered under the authority of Congress. He thought this would be spinning a finer thread than was necessary, and would give the people reason to suppose, that the General Government was disposed to keep them in their present condition as long as possible. If the Legislature of the United States should be convinced that the Territory contained a sufficient number of inhabitants to entitle them to admission into the Union, it was matter of form only how the census had been taken, or whether the Territory had been previously acknowledged as a State by Congress, or not. The fact of population was the only necessary one. And would no evidence satisfy gentlemen but such as they themselves shall direct? He should have thought that the passing of a law for the purpose, by the Provisional Government, was safe as to the result. The Governor being appointed by Congress, and the law having his assent, and being executed under his direction, gave the measure the authority of the United States. There appeared to him no just ground



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for supposing the census had not been fairly taken: He would make one observation, which it appeared to him should have some weight. If there were the stipulated number of inhabitants, that Territory could not be denied its claim of becoming a State of the Union without a violation of right; but, if the inhabitants requested it, and Congress pleased to admit them before they had their full complement, the error could not be of so serious a nature.

Another important consideration. The inhabitants of that district of country were at present in a degraded situation; they were deprived of a right essential to freedom—the right of being represented in Congress. Laws were made without their consent, or by their consent in part only. An exterior power had authority over their laws; an exterior authority appointed their Executive, which was not analogous to the other parts of the United States, and not justified by anything but an obvious and imperious necessity. He did not mean by this to censure the regulations of their Provisional Government; but he thought where there was doubt, Congress ought to lean towards a decision which should give equal rights to every part of the American people.

If there should be any inaccuracy in admitting them into the Union before they possessed the full number of inhabitants, it was only a fugitive consideration; the great emigrations which take place to that country will soon correct the error. But he did not believe there could be any doubt on the subject. He thought the evidence was sufficient and satisfactory. He would not go into detail on the subject; for if the matter appeared to the Committee as it appeared to him, they would think there was no necessity for it.

Mr. NICHOLAS, like the gentlemen who had spoken against the admission of Tennessee, said he would consider the rights of that country; that he did not wish them to receive a favor of Congress, nor did he think they had occasion to ask one as their rights extended to everything they wished. If those gentlemen would examine the subject with him, they would find that they had at first only skimmed it.

Three objections have been made to the claims of that country, which he would consider in order. The first was, that Congress must have determined whether it should contain one or more States before they could assume the right of self-government, or be admitted into the Union. The second, that, after such determination, Congress must have ascertained, by a census, taken under its own authority, that the State laid off by them, contained sixty thousand free inhabitants. In the last place, it is contended, that if the Legislature of that country had a right to order an enumeration, the one taken appeared to be unfair.

If it was considered that these people claimed by the contract to become a part of the Union, it will be thought extremely improbable that either of the two first should have been considered as the meaning of the contract. To stipulate for benefits, and at the same time to leave to the party from whom they are extorted, the liberty to do,

or not to do, what is necessary to give those benefits existence, is to put the attainment in great hazard. If, for instance, the determination as to their being one or more States might be at any time made, it is competent for Congress to postpone such determination, and when they do determine, they may divide the country in such a manner as to preclude their inhabitants forever from self-government or representation here. If it depends alone on Congress to make the enumeration, they may delay this, also, at their own will, and defeat the rights of the other party.

To secure the objects the contract had in view, it appears to be necessary, then, that some limitation of time should be put to the power of Congress to divide that country into more States than one; and that, for the sake of both parties, there should be a mixed authority which should be competent to do the acts necessary for investing that country with the stipulated rights. Neither party could rely on the other doing it justice, if the power was to be in the hands of one, therefore it was extremely desirable that a power composed of both interests should have this control. Having made these observations, let us look into the contract and the Government of the country for these requisites, and there it will be found that they incontestably appear. The 11th article in the act of cession of North Carolina is in these words:

"That the Territory so ceded, shall be laid out and formed into a State or States, containing a suitable extent of territory, *the inhabitants of which, shall enjoy all the privileges, benefits, and advantages set forth in the ordinance of the late Congress for the government of the Western Territory of the United States; that is to say, whenever the Congress of the United States shall cause to be officially transmitted to the Executive authority of this State, an authenticated copy of the act to be passed by the Congress of the United States, accepting the cession of territory made by virtue of this act, under the express conditions hereby specified: the said Congress shall, at the same time, assume the government of the said Territory, which they shall execute in a manner similar to that which they support in the Territory West of the Ohio; shall protect the inhabitants against enemies, and shall never bar or deprive them of any privileges, which the people of the territory West of the Ohio enjoy,*" &c.

Here, then, it is clear, that the distribution into one or more States must have been made immediately after the cession. That the stipulations for the benefit of temporary Government are for the inhabitants of one or more States, thereby making the division contemporaneous with the Territorial Government, and that unless a division was made in the commencement of the temporary Government, it never could be made. If the contract itself had not been so explicit, the reference to the condition of the Territory West of the river Ohio would require it; for the distribution of that Territory, so far as it depended on Congress, was made in their said act respecting that country. The spirit of the contract, the contract itself, in its letter and reference to the state of another country, required the division to have been immediately made, if at all; and, if it has not been done,



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it is a waiver of the right, and the country must remain as it is.

As to the power which is competent to make the enumeration of the country, there can be as little doubt, on attending to the subject, according to the ordinance referred to in the act of cession. Their Government was composed of a governor, chosen by the PRESIDENT OF THE UNITED STATES, a Legislative Council, also of his appointment, and the Representatives of the people. To them, as three distinct branches of legislation, was confided the government of the Territory, and no act could be made without the concurrence of all three. The ordinance does not say who shall ascertain the fact of their being sixty thousand free inhabitants, but declares that, when that was the case, they shall be entitled to form a Government for themselves, and be admitted into the Union. The question is, by whom the fact should be ascertained? If a scheme was to be formed for an impartial execution of this contract, human ingenuity could not devise one more proper than that of their Government. The Governor and Council, under the control of the United States—the people represented by another body. If the contract was to be made anew, could any person object to leaving the power in question in their hands? With such a composition, why should this be taken out of their Legislative operations? It is to be remarked, that when they are to entitle themselves to representation in consequence of having five thousand free males, the ordinance requires that proof should be made to the Governor. In the last stage of their population, it prescribes no mode, naturally supposing that it would devolve on the Legislature of the country. It is certainly both reasonable and a safe deposit of the power.

The law for taking the census has itself been the foundation of objection; perhaps it might be questioned how far we have a revision of the law made with consent of the Government through another channel, but it will afford good ground for refusing what they demand of us. It must naturally have been productive of misrepresentation, to be liable to objection. It is not to be presumed that a fraudulent disposition would have discovered it in the law. The execution of it afforded much safer means of deceiving us. It is not to be believed that the law meant what is imputed to it, but there can be no doubt but the excess over the requisite number is sufficient allowance for the conjectured effect. At any rate, we have a discretion to admit them before they get to any certain state of population; and considering the circumstances in which they will be thrown I have no doubt, said he, but that they ought not now to be admitted.

Mr. BLOUNT said, he did not think it necessary to reply to the arguments of the gentlemen from South Carolina or Massachusetts, except what related to the law directing the census to be taken. The word "people" was used, as a more definite term than inhabitant, because the inhabitants of that country are almost always traveling. He would allow it to be possible that persons might be taken in more than one place, but he believed that had

not been the case. It frequently happened that persons waited several weeks at some place in Holston settlement, in order to get a company sufficient to pass the wilderness, and, if time had not been given, many of those persons would have been taken. If these things were taken into view, it would be seen that the design was not, as had been unfairly represented, to take persons in different parts of the Territory, but that all the people might be enumerated.

The gentleman from South Carolina said they had been very fortunate as to the number, so as just to be entitled to two Representatives; but that gentleman must know that the number of free persons was upwards of sixty-six thousand, and that for the purpose of ascertaining their quota of representation, they were entitled therefore to add thereto three-fifths of upwards of ten thousand slaves, which would make the whole number entitled to a representation of seventy two thousand. Mr. B. said he did not think it necessary at that stage of the business to make further observations upon the subject.

Mr. HILLHOUSE said, he was not hostile to these people being admitted as a State of the Union. He wished they might be admitted. He should wish, however, to have their boundary so settled that there might hereafter be no dispute on that head. He had no idea of incorporating lands within this State to which we had no right. We ought not, he said, to extend this Territory any further than the Indian line, and, when the title of the Indians became extinct, as far as the Mississippi and North Carolina boundary; but he did not wish to admit them as a State until their limits were fixed. He said they had no right to find fault with their Constitution, if it did not interfere with the Government of the United States. He did not think they should be divided; but he did not think there was any occasion for haste. He thought they would have no room to complain if they were to admit them into the Union as soon as their boundary could be settled. Some information upon the subject was necessary:—Northwestern and Southwestern Territories were too indefinite expressions for assigning boundaries.

Mr. FRANKLIN said, the boundary was well ascertained. The State of North Carolina was one boundary, and in the act passed this session relative to trade and intercourse with the Indian tribes, the Indian boundary was settled. No one would wish to go beyond the Indian lines, if they did they would be liable to a forfeiture of their lands. The boundaries were as well ascertained as they could be, until a mathematician should go and mark them out specifically. They had not lost sight of it in the reserves in North Carolina. It was there said all the unappropriated lands should be reserved to the United States.

The Committee rose, and had leave to sit again.

FRIDAY, May 6.

RICHARD SPRIGG, Jr., from Maryland, took his seat in the House, in the place of Mr. DUVALL, resigned.

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A bill for the relief of Sylvanus Bourne was twice read, and ordered to be engrossed for a third reading.

The bill making provision for certain Debts of the United States, was read a third time and passed. The blanks for the sum which the PRESIDENT was entitled to borrow on an irredeemable Loan for a number of years, was filled up with five millions.

The bill for repealing that part of the act relative to the District Courts of Pennsylvania being held alternately at Philadelphia and Yorktown, was read a third time and passed.

The House proceeded to consider the report of the Committee to whom was committed the bill, sent from the Senate, entitled "An act to amend an act, entitled 'An act to promote the progress of Useful Arts, and to repeal the act heretofore made for that purpose.'" Whereupon,

*Ordered,* That the said bill, together with the report thereupon, be recommitted to Mr. GRISWOLD, Mr. PAGE, Mr. HAVENS, Mr. MURRAY, and Mr. BRADBURY; that they do examine the matter thereof, and report the same, with their opinion thereupon, to the House.

Mr. S. SMITH laid a resolution, to the following effect, upon the table:

"*Resolved,* That there be allowed and paid, for the year 1796, to the Secretaries of the Treasury and War Departments, the Treasurer, Comptroller, Auditor, Register, Purveyor, and Attorney General, — per cent. on their respective salaries, in addition thereto."

#### ADMISSION OF TENNESSEE.

The House resolved itself into a Committee of the Whole, on the report of the committee to whom was referred the Message of the PRESIDENT, relative to the Territory of the United States South of the river Ohio.

Mr. RUTHERFORD hoped the Committee would concur in the report. He had no idea of confining that Territory to the strict legal line. He did not wish to cavil with this brave, generous people. He would have them taken out of leading-strings, as they were now able to stand alone; it was time to take them by the hand, and to say, we are glad to see you, stand on your own feet. We should not, he said, be too nice about their turning out their toes, or other trifles; they will soon march lustily along. They had complied with every requisite for becoming a State of the Union—they wished to form an additional star in the political hemisphere of the United States—they have erected a State Government, and wish to come into the Union, and to resist their claim would be out of character. He hoped it would be agreed to.

Mr. DAYTON said, he disapproved of the report of the committee, and of the terms in which the resolution they had recommended for the adoption of the House was expressed. He could never give his assent to any proposition which expressly or even impliedly admitted that the people inhabiting either of the Territories of the United States could, at their own mere will and pleasure, and without the declared consent of Congress, erect themselves into a separate and independent State. Yet

this seemed to be the spirit of the report under consideration, and what was still worse, it went, as he understood, to renounce any right in Congress even to deliberate whether they should become a member of the Union. He was by no means desirous of opposing the wishes of this valuable and enterprising people who inhabit the South-western Territory, nor of unnecessarily impeding the efforts they were making to throw off the Territorial jurisdiction, and establish a system of Government for themselves; but being aware that the steps now about to be taken would be regarded and pursued hereafter as a precedent, he conceived it important that they should, in this first instance of the sort that had presented itself, proceed circumspectly and rightly. He was willing to pass a law in the present session which should at the same time provide for erecting and forming them into a State, and for admitting them as such into the Union. They should thereby effectually promote the views of the people of Tennessee, in a mode which, by avoiding the violation of any just political principle, would entirely reconcile and render consistent the interest of that district of country and of the several United States.

Mr. D. acknowledged that he should have been much better satisfied if he had found all the people comprehended within the Territorial line petitioning for this measure, and if he had seen ingrafted in their Constitution the conditions and restrictions contained in the ordinance upon which they found the right they were claiming; but he knew that unanimity was in no instance to be expected amongst a people so numerous and scattered; and he was convinced that they were bound by the conditions and limitations he alluded to, without an acknowledgment and repetition of them in their new charter.

Mr. DEARBORN said, as to the census relative to representation, it appeared doubtful, that, because that Territory had now 66,000 inhabitants, they were entitled to two Representatives, as the other States of the Union were represented according to the number of inhabitants they contained in the year 1790. It might be doubtful whether they should be entitled to an advantage which was not allowed to other States. It had been his opinion (and he saw no reasons to change) that if this Territory was admitted into the Union, it was not entitled to more than one Representative; and therefore it was not necessary to make another census. As to passing a previous law recognising the Territory as a State before it was admitted into the Union, he did not think it necessary. They say they are now a State, and surely Congress would not say to them, You shall not be a State, or dictate to them what sort of a Constitution they shall have, provided it be Republican. The method taken for ascertaining their number of inhabitants, he thought, could not be objected to. He saw no reason to prevent them from accepting the Territory as a State of the Union: what number of Representatives they were entitled to would turn upon another point.

As to the boundary, it was a question of some consequence how far the district of a State should



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extend. He believed it would be proper to exclude all that part of the Territory within the Indian boundary, and on that account it might be necessary to pass an act for the purpose. But he did not think it necessary to scrutinize into the business so closely as some gentlemen seemed to imagine. From the census, it appeared they had from 60,000 to 70,000 inhabitants. They had taken upon themselves to form a State—had formed a Constitution, and declared they were a State; and it would not become Congress, on light ground, to say they were not a State. Besides, he could not see the propriety of adopting any measure which might tend to irritate them. They formed an extensive frontier—were very far detached from the Atlantic States. We should rather, he said, think of conciliating than irritating them; and, though they may not have precisely adhered to the exact line of propriety, in every particular, it was the duty of that House to receive them as a State of the Union.

Mr. BLOUNT said the House should have determined upon this question long since, as the Government of Tennessee had a month ago gone into operation. The people there had chosen not only their State officers, but their Senators, and perhaps their Representatives, to come to Congress. The Governor had, from time to time, informed the PRESIDENT OF THE UNITED STATES of every step taken towards the proposed change of government. In July, he sent him a copy of the law directing the census to be taken; in November, when the census was completed, he sent him a copy of it, and a copy of his Proclamation requiring the people to elect members of Convention for the purpose of forming a Constitution and State Government; and on the 19th of February he sent him a copy of the Constitution, with notice that on the 28th of March, when the General Assembly of the State of Tennessee would meet to act on the Constitution, the temporary Government would cease; and this last information was, to his knowledge, received on the 28th of February—forty days before it was communicated by the PRESIDENT to Congress, and eleven days after it must have been known to the Secretary of State, if not to the PRESIDENT, that the State Government had gone into operation.

What would be the consequence, said Mr. B., of refusing at this time, and under these circumstances, to receive this State into the Union? Did gentlemen wish to re-establish a temporary Territorial Government there? If they did, he believed their wish would not easily be accomplished; for the people there believed, that in changing their Government, they only exercised a right which had been secured to them by a sacred compact; and under that belief, they will be disposed to defend it. That right was, in his opinion, recognized by the Government of the United States, when Mr. WHITE was permitted to take his seat in that House as the Representative of the Territory; and from that circumstance they had reason to expect that 67,000 inhabitants would have entitled them, without scruple, to be a member of the Union. If the census was not a just one, or if

there had been any fraud used in taking it, an impeachment would lie against the Governor, who, upon his responsibility as an officer of the United States, sanctioned the law for taking it, and acted under it after it was taken.

However the Committee might determine as to the sufficiency of the census to ground a ratio of representation upon, he thought it could not be doubted but it was sufficient to prove a right to form a Constitution and State Government, and to claim admission as a State into the Union.

Mr. W. LYMAN said the subject presented itself in two points of view—as it related to the Territory being admitted as a State into the Union, or as giving them a right to send members to Congress. In his opinion, according to the ordinance of Congress, they had a clear right to be admitted as a State into the Union; for it was there said that when they had 60,000 inhabitants, they should be entitled. No mode is pointed out how it shall be ascertained; but the Governor being expressly mentioned in the case where 5,000 inhabitants were to entitle them to a temporary Government, he thought there could be no doubt but the same way was to be observed with respect to their qualification for becoming one of the States of the Union. This fact, he said, came fully ascertained, and being so, there could be no doubt the right was clear. It was a right, indeed, which they could not deny, and, as a matter of expediency, it was not worth while to oppose it. He saw no reason why they should call in question the proceedings or the parity of the Government of that Territory, so as to doubt their return.

As to any particular expression in the resolution, he had no objection to have it altered; but he thought the resolution before them, or something like it, should be agreed to. The new Government was put into execution, and it would produce ill effects to oppose it. No evil would arise from agreeing to it, but to disagree to it might cause great evils: he hoped it would therefore be agreed to.

Mr. DAYTON said that he preferred the formation of the Southwestern Territory into one State, to a division of it into two, and he therefore did not agree with those gentlemen who had advocated the latter idea. The people had requested to be united into one State, and he was for complying with their request, and for taking them at their word, rather than by subdividing to give them a double representation in the Senate. He would not be understood as having said that he considered the census they had caused to be taken a proper one upon which to found the true ratio of representation, but only as sufficient evidence to justify Congress in passing the act which he proposed, especially as they might be formed into a State, even though their numbers did not amount to 60,000. It would be necessary to direct by a Legislative provision, and under similar restrictions and regulations to those prescribed for the States on a like occasion, the taking of a new census, which may be done in season to enable their Representative to take a seat at the next session. He held in his hand a resolution which



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seemed to him most proper for the Committee to adopt, and which he read, in the following words, viz:

*“Resolved, That provision ought to be made by law for erecting and forming into one State the district of country called ‘the Territory of the United States South of the river Ohio,’ and for admitting it into the Union as a member thereof.”*

If this should be adopted by the Committee of the Whole, and agreed to in the House, a bill could immediately be brought in and passed, without delay through the House of Representatives, and probably through the Senate; but the report under consideration was of a barren nature, rather calculated to be entered and to sleep upon the Journals than to produce any operative act, or to require the concurrence of the Senate. Mr. D. said he could not consent to go further than he had stated, much less admit that by their own single act they had become a separate sovereignty; for if such a principle was sanctioned, it was impossible to foresee all the consequences, and extent of them. If they were, as had been represented, at this moment an independent State, they might offer or refuse at pleasure to become a party to this Confederacy, or they might, in offering to enter into the Union, annex to the offer such terms and conditions as should give them advantages over the other States, and they might even treat and ally themselves with any foreign Power. Although such an hostile or menacing measure was not to be apprehended on the part of a people so regardful of their true interests as those in question were, yet what security could there be for the prevalence of an equally good disposition through the whole extent of the other Territory in which ten new States had been contemplated, and in a part of which resided many whose attachment to another Government was well known? The rule they were now about to establish must operate in future as a guide, and it needed no effort to believe that this country would on some future occasion, and that perhaps not distant, lament the adoption of the principles contained in the report.

Mr. SEDGWICK concurred in opinion with the gentleman from New Jersey, [Mr. DAYTON;] and if any gentleman understood him to say that he did not wish the State of Tennessee to be admitted into the Union, it must have been an error, for he had no such desire. But he was still persuaded that it was never intended that that Territory should have the power of settling the way by which they were to become one of the independent States.

What had been said by a gentleman from Virginia [Mr. MADISON] of their being in a degraded situation, because controlled by laws which were made by persons independent of them, would not only apply to 60,000, but to six persons. The question was whether they were in a situation in which they could claim to be a State? If they were, they ought to be admitted; if not, they ought not to be admitted. If the idea of the gentleman from New Jersey was adopted, they might be admitted at an early period. He had no

idea of charging Governor Blount with improper conduct: he was entitled to his respect. If it was intended that these people should decide upon their own situation, they ought to do it in the way observed in cases directed by the Constitution. Mr. S. proposed two resolutions—one for laying out territory into a State or States, and another for directing a census of the inhabitants to be taken.

It appeared to him that this was the way in which the subject should be considered: they should determine whether the Territory should be in one or two States, and before Representatives were sent to Congress, a census would be taken by authority of Congress. Words could not, he thought, have rendered more explicit the intention of the contracting parties than the words of the compact; and all this might be done in time for Representatives to be sent to the next session of Congress.

Mr. MACON said the chief differences in the opinions of gentlemen arose upon a subject which was not before the Committee, viz: the number of Representatives to which this new State was entitled in that House. The question before the Committee was on admitting the Territory to be a State of the Union. There appeared to him only two things as necessary to be inquired into: First, Was the new Government Republican? It appeared to him to be so. And, secondly, Were there 60,000 inhabitants in the Territory? It appeared to him there were; and, if so, their admission as a State should not be considered as a gift, but as a right. Their temporary Government (by whose authority the late census was taken) had not only a Governor appointed by the Executive of the General Government, but also a Legislative Council. To admit this Territory as a member of the Union, appeared to him as a matter of course. It also seemed as if the Executive was of that opinion. The President having been duly informed from time to time with the proceedings of that Territory towards being admitted into the Union, if he had thought they had been doing wrong, he would have set them right. It was also his opinion, that if they had passed a law directing a census to be taken, it would have been done exactly in the way the present had been taken. He thought the subject of navigation was settled by the Constitution of the United States; the waters in that country would be under the same regulations with all other waters in the Union, nor did he think there was any thing in the Constitution of Tennessee which had a contrary tendency. It appeared clearly to him that everything had been fairly done, and that they had a right to claim an admission as a member of the Union.

Mr. BALDWIN said, had he belonged to the Territory South of the Ohio, he should probably have been for pursuing a different mode of conducting this business, from that which it seems they have thought proper to adopt. He should have thought it desirable, a year or two ago, to have obtained from Congress an act pointing out the mode of taking the census, and ascertaining the events on which they were entitled to become a State. He said Congress ought also, of their own accord, to

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have taken up that subject, and made those provisions, though not requested by the Territory; and it had always been with surprise he had observed that the first act for forming that Territory did not contain those provisions. He thought, as to the principle in this case there could be no doubt. Whenever the event happened of their having 60,000 inhabitants, as pointed out by law, their right to be a State took place. It was to depend entirely on that contingency: when that was proved to have taken place, they could not be debarred. There having been no mode previously pointed out for ascertaining this fact, only makes it more difficult for the Territory and for Congress to be satisfied of the fact of their actually having so many inhabitants, but does not affect their right. He thought it best for the House to proceed to examine their census and the evidence which they had thought proper to collect and bring forward in their own way. He was ready to allow that, for himself, he should examine it more scrupulously than he should have done, had it been taken under a law of Congress. But he had not understood many objections had yet been made to it. Perhaps, on further examination, it will be found fully satisfactory; if so, they must be admitted to be a State as a matter of right. They might have waited longer, and attempted to have formed two States: they have made their election of the other alternative. He thought it wise for Congress to avail itself of this opportunity of holding them to what they have chosen, and thus prevent future difficulties and misunderstandings.

As to the objection that there are several things in the Constitution of Tennessee inconsistent with the Constitution of the United States, and with the ordinance for establishing the Territory, it is well known that as the Constitution of the United States, and the compact under which the Territory was settled, will be paramount, they can therefore have no effect.

Mr. W. SMITH said he was glad to find the observations which he made yesterday in some measure sanctioned to-day. He then recapitulated his leading arguments. It was said yesterday by a gentleman from Virginia, [Mr. MADISON,] that whilst the people of the Territory remained in their Colonial situation, they were in a state of degradation; but, he would ask, at whose request they became so? Look at their request in the year 1790, as expressed in the cession act. And yet, in the course of a few years, without consulting Congress, in consequence of a census taken by their own authority, they proceed to erect themselves into a State, create a new Government, and claim to be admitted into the Union as a matter of right. Under their former Government their member was admitted to that House; yet, whilst he holds his seat under that Government, they have appointed other members to represent them under their new Government. The most regular way would certainly have been to have transmitted their request to Congress to be formed into a State. Congress would then have passed a law for taking a census, have fixed when the Territorial system should cease and the State Government commence.

He thought the business was of considerable consequence, and he was sorry it was taken up in so thin a House. There would certainly arise in a few years other new States in the Western country yet uninhabited, which might occasion considerable difficulties. They might make a census, and say they had 60,000 inhabitants, when they had not half that number. He did not wish to keep the inhabitants of the Southwestern Territory out of the Union, but he wished them to be admitted in a Constitutional mode.

Mr. GALLATIN was of opinion that the people of the Southwestern Territory became *ipso facto* a State the moment they amounted to 60,000 free inhabitants, and that it became the duty of Congress, as part of the original compact, to recognise them as such, and to admit them into the Union whenever they had satisfactory proof of the fact.

It was objected that, previous to the proof of that fact being given, it was necessary that Congress should have laid out and formed that Territory into one or more States, and that the proof of their number should have been given under direction and by order of Congress, the people not being competent to give the proof themselves.

Both those objections supposes a construction of the original compact between the people of that Territory and the United States, (of the act of cession of North Carolina, and of the ordinance of Congress of 1787,) which was inadmissible; for it rendered that compact binding upon one party and not upon the other. It is supposed that that ordinance, whose object it was to establish the principles of a free Government, and to ascertain a certainty of admission into the Union, had declared that the time when those people were to enjoy that Government, and were to be admitted as a member of the Union, depended not on the contingency of their having 60,000 free inhabitants, but on certain previous acts of Congress—in other words, on the sole will of Congress. Either you must acknowledge that their admission depends solely on the condition of the compact being fulfilled, to wit: their having the number required; or you declare that it rests upon another act, which may be done or refused by the other party; that Congress have the power, by neglecting to lay them out into one or more States, or by refusing to pass a law to take a census, to keep them forever in their Colonial state. Nor did the strictest interpretation of that contract justify the construction given by the gentleman from South Carolina; for the only meaning that could consistently be given to the words, "lay out and form into one or more States," was, that Congress had power to fix the boundaries of the Territory or Territories that were to become a State or States. They could have declared that that Territory should be one or two States; but if they had neglected to do it, their omission could not be plead against the inhabitants of Tennessee. The power given by that clause to Congress was merely to fix boundaries, and to choose whether there should be more than one State; but if they



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had not made use of that power, there must be one State, and its boundaries were fixed by the act of cession, so that nothing remained now for Congress to operate upon.

There was nothing in the ordinance of 1787 which forbade the people giving proof of their number, without any previous act of Government. On the contrary, in a case of a similar nature with the present, to determine whether there were 5,000 free males, and whether, of course, the Territory was entitled to a Colonial Legislature, it was declared that as soon as proof should be given of that fact to the Governor, they should be entitled to their new form of Government; which expression left to the people a full power to give the proof themselves. He could have wished, indeed, that the census had been taken under a law of Congress; but it must be remembered that the law of the Territory of Tennessee, under which the present census had been taken, was acquiesced in by the Government of the Union: for upon that law both the Governor and Legislative Council of the Territory, both chosen by the General Government, had a negative; in other words, that law was our act as well as the act of the people of Tennessee; for it had passed by the joint consent of their and our Representatives. At all events, the neglect of Congress in not passing a law could not, in this case, nor in that of laying out boundaries, be urged as an argument against the admission of those people, unless, indeed, we meant to assume the imperious language of a Mother Country to her Colonies, instead of that of the Representatives of a free people to their fellow-citizens.

The objections made to the Constitution of Tennessee were, if possible, still more frivolous. It was said, that the omission in that instrument of certain restrictions upon themselves, which made part of the original compact of the ordinance of 1787, was a breach of that compact. With as much propriety could it be said that the omission in the Constitution of South Carolina, Pennsylvania, Delaware, or Georgia, (all of which were so formed after the adoption of the Federal Constitution,) of those clauses of the Constitution of the United States which imposed restrictions upon the several States was a breach of that Constitution; as if, in the latter case, the Constitution of the United States, and in the first, the Constitution and the ordinance of 1787, were less binding because not inserted in the individual Constitution, in the municipal law of the State.

The only question which, in his opinion, deserved consideration was, whether the proof given to them that there were sixty thousand inhabitants, was satisfactory. It appeared to him that there was a clause in the act for taking the census, relative to transient persons, which differed from that under which the census of the States had been taken, and which was liable to abuse. As that law, however, was acquiesced in by ourselves, the question was, whether it had been actually abused; whether there had been any fraud committed in taking the census. On this they had not a shadow of proof. The census bore on its face every appearance

of fairness, and the number of inhabitants therein returned so far exceeded sixty thousand, as fully to compensate for any possible error or abuse resulting from the clause he had alluded to. Another question, not then before them, would afterwards occur, relative to the number of Representatives that State should be entitled to. He would not now decide whether, in order to fix that representation, a new census, under the direction of Congress, would be necessary. This, however, was not the question before them, and on the present one he would vote in favor of the report of the committee.

Mr. BLOUNT said, there was an absolute necessity for the clause which the gentleman last up objected to. Persons were daily coming to that Territory in great numbers. If the census had been required to be taken in one day all the people who had come into the Territory, with intention to reside permanently there, could by no means have been numbered. It was not intended to give the officers power to take persons in more places than one, nor did he believe it had been done. He undertook to explain yesterday the reason why so long a time was given, but he seemed not to have been understood, which was, the difficulties attending the passage of the wilderness.

The gentleman from South Carolina [Mr. SMITH] had said, that his arguments of yesterday had been to-day admitted. If the gentleman had supposed that he had admitted them, he was mistaken. That he might not continue under the mistake, he would inform him, that what he had called arguments, were, in his opinion, mere quibbles, such as could only have been expected from a County Court lawyer, at the bar of a County Court.

Mr. CORR said, that as he had not heard it suggested from any quarter that it would be expedient to divide the Territory into two States, he did not think it important to inquire into the powers of Congress in that respect. It is declared by the ordinance for the government of the Territory, that when there should be sixty thousand inhabitants in any one of the States there they should be admitted into the Union. If, then, it is not in contemplation to divide the Territory into two States, he considered that the right to be admitted was complete as soon as there was the requisite number within the whole Territory. But it appeared to him, that on examining the census and the law under which it was taken, they could not be considered as furnishing proof that there was that number there. He did not pretend to say that any fraud had been committed in the execution of the law, but the law itself was wholly defective. The same man might have been counted in several counties, nay, in every county in the Territory, and that without any fraud, but in strict compliance with the law; two months having been allowed for taking the enumeration, and it being enjoined on the Sheriffs of the several counties to include in their enumeration all persons within their respective districts within that period.

The gentleman from North Carolina [Mr. BLOUNT] seemed to imagine that it would have been



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impracticable to have followed a mode similar to the one pointed out in the enumeration law of the United States, but he could not see the reason. [He read the law.]

That affixed a particular day to which the enumeration had relation, though a period of several months was allowed for taking it in. What had induced the people in the Southwestern Territory to adopt a different plan he could not say; but it was certainly liable to abuse, and the most faithful execution of it would furnish no proof of their numbers; he therefore conceived that the census was not to be relied on.

It appeared to him, that the only question was, whether they had such proof as it was reasonable for Congress to require, of the number of inhabitants? The ordinance said nothing about the manner in which the proof should be made out. The gentleman from Pennsylvania [Mr. GALLATIN] had referred to another part of the ordinance to establish a rule for this case. The ordinance in the case alluded to, where proof was to be made to the Governor of a certain fact, had left it to him to determine what proof was sufficient, and he thought most clearly, in this case, the proof must be to the satisfaction of Congress, to whom it was to be made, and that it would be absurd to suppose them bound to accept as satisfactory such proof as the people in the Southwest Territory were pleased to give.

Mr. SITGREAVES said, he felt every disposition favorably to meet the wishes of the people of the Southwestern Territory, and for a reason which had been given, viz: that, as they were our fellow-citizens, it was desirable they should equally participate with us in all the advantages of the General Government, and suffer no longer than was necessary the comparative humiliation of a Colonial or Territorial administration; but, from obvious considerations, he thought it highly important that they should be admitted to the enjoyment of these advantages only in conformity with the promise made to them, and on the terms of the compact entered into jointly by the United States and by them. Two constructions of this compact had been contended for; one, that so soon as sixty thousand free inhabitants should be collected within the Territory, they should be entitled to a place in the Union, as an independent State; the other, that Congress should first lay off the Territory into one or more States, according to a just discretion, defining the same by bounds and limits; and that the admission of such States, thus defined, should take place as their population respectively amounted to the number of free inhabitants mentioned; that is, that the sixty thousand inhabitants could not claim admission into the Union, unless their number was comprised within a State whose Territorial limits had been previously ascertained by an act of the United States. He inclined to this latter construction, because it was conformable to the letter, and, as he understood it, to the spirit of the instrument. By the act of cession of the State of North Carolina, accepted by Congress, it is provided that the ceded Territory should be laid off into one or more States, and that the people of

the Territory should be entitled to all the privileges secured to the inhabitants of the Territory Northwest of the Ohio, by the ordinance of 1787. The extent of their privileges, therefore, is to be determined by this ordinance, which may be called their charter. They have no other or greater privileges than the inhabitants of the Northwestern Territory; and it cannot be pretended that these would be entitled to admission into the Union as one State, so soon as their whole number shall amount to sixty thousand, because the ordinance itself divides that country into three separate and distinct States, each of which must contain sixty thousand free inhabitants before it can claim to be received. The actual circumstances and situation of the Southwestern Territory evinced the reasonableness and propriety of this construction; it is composed of two settlements, the Holston and the Mero districts, separated from each other by the Cumberland Mountain and a wilderness of two hundred miles in width, which has always been inhabited by the Indians, and the soil and jurisdiction of which have been actually ceded to them by the United States, by late Treaties; and by an examination of the documents on the table it would appear, that when, agreeably to the act of the Territorial Legislature, the officers who took the census put to the people of the Territory the question whether they were desirous of admission into the Union? the inhabitants of the Western or Mero district almost universally answered in the negative. He would not undertake positively to pronounce on the inexpediency of forming the whole country into one State; but, under the circumstances which he had stated, and until they should be satisfactorily explained to his mind, it did appear to him that the interest and the wishes of that people required a division of the Territory. It looked somewhat absurd to connect under one permanent Government, people separated from each other by natural barriers, by a distance of two hundred miles, and by a foreign jurisdiction. They had been told, by gentlemen who knew the fact, that during the period of Indian hostility, the people emigrating to the Mero district were obliged to stop five or six weeks at the Eastern boundary of the wilderness, until they could collect in companies or caravans of sufficient number and force to pass in safety; the time of hostility may again return, and even a state of peace with Indians is not a state of such tranquility or security as to preclude the necessity of caution and vigilance on the frontiers. The people of the Western district seem sensible of the inconvenience of an arrangement so unnatural as the one proposed, and so far as their wishes can be collected from the documents before the committee, they desire as yet to preserve their connexion with us in its present mode, and to remain under the Territorial Government.

But it had been said by his colleague, [Mr. GALLATIN] that if this construction was the true one, it was in the power of Congress forever to keep this people out of the Union; that by neglecting or refusing to lay off the Territory into a State or States, they might forever preclude its

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inhabitants from admission into the Government, let their numbers be ever so large. Mr. S. on his part, admitted, that if this objection was founded, it ought to have weight; but nothing, he conceived could be more fallacious. In all compacts between a nation and a part of its citizens, the physical power, it is true, resides with the nation, and there is no other security for the other contracting party but the obligations of good faith and the integrity of the Government. In this view, his colleague's objection would apply to every possible contract to which the nation should be a party; even on his own construction of the instrument, a resolution or act of Congress, of some kind, is supposed to be necessary before the people of the Southwestern Territory can be admitted to a share of the national representation; by withholding this act, be it what it may, the privilege could be defeated; and thus the objection may be retorted on the gentleman who uses it. But admitting the obligation of the Government to perform its engagements with fidelity, and its disposition to do so, no such objection can grow out of a fair construction of the compact. The ordinance of 1787, and the act of 1790, both direct that a State or States shall be laid off. This mode of expression imposes an essential obligation on the United States; it does not leave them authority to refuse; it gives a discretion only as to the time and manner of laying off the country; this discretion must necessarily be vested somewhere, and it is placed where it cannot be supposed that it will be abused.

There is, in truth, no such intention to delay, on the part of the Government, whatever shall be necessary to meet and to gratify the just wishes of the people of the Territory; the only dispute is as to the mode of doing the business and of collecting the evidence of the necessary facts. It is one question whether the Government or the United States shall ascertain the existence of the prerequisites by a process of its own, executed under its own authority, or whether it shall take upon credit the evidence furnished by the Territorial Government? It is admitted on all hands, that, to justify the claim of those people as a matter of right, 60,000 free inhabitants must inhabit the Territory; is there then satisfactory proof that there is this number of inhabitants? It had been contended by his colleague [Mr. GALLATIN] that the proof ought to be satisfactory, because it had been ascertained by the same authority which, as to a purpose supposed to be analogous, had been prescribed by the ordinance itself. By the provisions of that instrument, the administration of the Territory was to be strictly Colonial, by the Governor and Judges, until there should be within it 5,000 free male inhabitants of full age; at which period, the people were authorized to choose a Territorial Legislature, and the proof of the necessary number was to be made to the Governor of the Territory. Hence it is inferred, that proof made to the Governor, and to his satisfaction, which is sufficient for one change in the Government, ought to be held sufficient for the other change contemplated by the same ordinance. This

inference, he contended, was incorrect. The effect produced by the first change, acts only upon the people of the Territory; it regulates only the mode of enacting their internal municipal regulations; it is an affair in which the United States have no interest, and no concern; it was therefore perfectly just that the evidence of the fact should be ascertained by the people who alone were to be affected by it; but to the consequences of the second alteration in the Government, the United States are also a party, and a party essentially and importantly interested. When the inhabitants of that Territory claim an equal share in the administration of the General Government, it is certainly reasonable that the General Government should be satisfied, by means known to its Constitution, of the evidence on which this claim is founded. Accordingly a repetition of the expression relied on is carefully avoided in that part of the ordinance which relates to the admission of the Territory into the Union; this difference was certainly not without a meaning, and the true inference is that, in the last case it was intended the census should be taken by the authority of Congress, and not as in the former case by the authority of the Territorial Government; the census in the original States is taken at the periods prescribed by the Constitution, by the authority and by the officers of the United States, and there can be no reason for distinguishing the case of the Southwestern Territory, or entitling them to a representation upon easier or more favorable terms.

But it had been contended by a gentleman from Virginia, [Mr. NICHOLAS] that as the act for the government of this Territory did not divide it into more States than one, as was done in the ordinance for the government of the Northwestern Territory, it resulted that Congress had made their election, had exercised the discretion given to the United States by the act of cession, and by declining to lay it off into several States had established it as one. This conclusion could not be justified, either by the words of the act, or by the example of the ordinance. The act is avowedly and expressly made for the purpose of temporary Government only; and it was a fact of which the gentleman from Virginia needed not to be told by him, that the division of the Northwestern Territory by the ordinance of 1787, was as yet incomplete, and that its operation as to this purpose depended altogether on an act to be done, but not yet done, by the State which that gentleman represented, to wit: a partial repeal of their act of cession. Mr. S. said, he could not see where the doubt resided. The cession of this Southwestern Territory, made by North Carolina and accepted by Congress, directs, as he had before observed, that the ceded country should be laid off in one or more States. He asked if this had been done? If it had not been done, did it not remain to be done? The course was extremely clear; a State must be formed; and afterwards when that State shall contain 60,000 free inhabitants, and this fact shall be properly ascertained, it shall be received into the Union, and not before.

He did not think that by contending for these



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principles, he should materially delay the gratification of the wishes of these people. He certainly did not wish it. But we are treading on new ground; and it ought to be cautiously explored. In admitting this country to a share in the General Government, we are forming a precedent for many future cases, and which may be hereafter of the most important effect on the national interests and happiness; it therefore behoved them well to consider the subject. By adopting the mode suggested by the gentleman from New Jersey [Mr. DAYTON] or something like it, this State might still be organized in time for a representation in the next Congress; no outrage would be done to the provisions of the ordinance, and the hazard of establishing a dangerous precedent would be avoided.

Mr. MACON said, he should be as unwilling to agree to the doctrine of the gentleman from New Jersey, [Mr. DAYTON] as he was unwilling to agree to his. As to the people of this Territory attaching themselves to any other nation, he should not have thought it could have been suggested. There was no more likelihood of their going over to any other Government, than there was of any other State doing the same thing.

Mr. GALLATIN said, how the resolution on the table, or the doctrine he had asserted, supported the idea that that Territory would have a right to separate from the Union, he could not see, and he should be glad to be informed. So far from it, his opinion was, that if they were a State, they were at the same time a member of the Union; that they could not exist as a State without being one of the United States. The only difference of opinion was whether an act of Congress was necessary previous to their being recognised as such; and if any doctrine could lead to the conclusion of the SPEAKER, it was that of those gentlemen who thought that Congress must form them into a State, several months before they were admitted into the Union. In that intermediary situation, whilst declared a State and not one of the United States, they might, perhaps, claim, as an independent State, a right to reject an admission in the Union. But those consequences could only flow from the doctrine he was combatting; the principle he was supporting was that no previous act was necessary, that there could not be two acts upon the subject; but that one and the same act must recognise them as a State and admit them in the Union.

Mr. HARPER said, it was for the most part wise to avoid the discussion of strict right, where considerations of expediency might furnish sufficient grounds of decision. There were doubts existing as to the right of the people of this Territory to be admitted into the Union. He had himself entertained doubts on that subject, and he had heard nothing by which they could be removed. If, then, it should be found that on principles of expediency the House ought to gratify their wish of becoming a State, why entangle itself in the discussion of a difficult and perplexing question of strict right? He wished to avoid it, and to that end, was desirous that the resolution proposed by

the gentleman from New Jersey should be adopted. That resolution would attain the object, without deciding any principle. When he had the honor of addressing the Committee before on this subject, he had given it as his opinion that the people of this Territory ought to be admitted into the Union, not because they had a right to it, for that was doubtful, but because they wished it. He was still of the same opinion. As to the evidence which they produced of their numbers, he still thought it liable to doubt; and, whilst it was allowed on all hands that they had taken this evidence without the least intention of giving room for abuse, yet, it being evident that abuse might exist, it ought to be guarded against.

In the law proposed to be passed, every regulation necessary for establishing the principles on which States should hereafter be admitted into the Union, might be included. By this method all difficulties might be avoided, and the reasonable wishes of the people in that part of the country might be gratified without a violation of any principle, or the discussion of any doubtful question. He should, therefore, vote against the resolution of the select committee, in order, if it were rejected, to introduce that proposed by the gentleman from New Jersey, which he thought calculated to attain, in a less exceptionable and more effectual manner, the same desirable end.

Mr. BLOUNT hoped the original resolution would not be rejected for the sake of the gentleman from New Jersey. He did not wish to give up the right to which these people were entitled; though perhaps the law might not pass the Senate.

Mr. HARPER objected to the mention of the Senate, as to what was likely to be done there. He hoped they should adopt the resolution of the gentleman from New Jersey.

The question was then taken on the original resolution reported by the select committee, and carried by 41 to 35.

The Committee rose and the House took up the consideration, when Mr. KITCHELL proposed a resolution in the place of that which had been agreed to in a Committee of the Whole, as he thought some law should be passed by Congress recognising the Territory as a State, before they were admitted into the Union. It was negatived; and the original resolution was agreed to by 43 to 30, as follows:

YEAS.—Theodorus Bailey, Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Dempsey Barges, Thomas Claiborne, John Clopton, Jeremiah Crabb, William Findley, Jesse Franklin, Albert Gallatin, William B. Giles, James Gillespie, Andrew Gregg, Wade Hampton, Robert Goodloe Harper, Carter B. Harrison, Jonathan N. Havens, Daniel Heister, James Holland, George Jackson, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, James Madison, Andrew Moore, Anthony New, John Nicholas, Alexander D. Orr, John Page, Francis Preston, John Reed, Robert Rutherford, Israel Smith, Richard Sprigg, jr., Thomas Sprigg, Absalom Tatom, Philip Van Cortlandt, and Abraham Venable.

NAYS.—Benjamin Bourne, Theophilus Bradbury,



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Gabriel Christie, Joshua Coit, George Dent, Abiel Postes, Dwight Foster, Ezekiel Gilbert, Henry Glen, Chauncey Goodrich, Roger Griswold, Thomas Hartley, Thomas Henderson, James Hillhouse, Wm. Hindman, Aaron Kitchell, George Leonard, Samuel Lyman, Francis Malbone, Theodore Sedgwick, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Isaac Smith, William Smith, George Thatcher, Uriah Tracy, John E. Van Allen, Peleg Wadsworth, and John Williams.

SATURDAY, May 7.

The SPEAKER presented resolutions and a petition from Huntingdon county, in favor of the Treaty. Some debate took place upon the propriety of receiving the resolutions, on account of their being said to contain a censure on the proceedings of that House; they were read, the sense of the House was taken, and they were rejected. The petition was then laid upon the table.

The bill for the relief of Sylvanus Bourne was read a third time and passed.

A bill to regulate compensation to clerks, and a bill to regulate quarantine, were twice read and referred to a Committee of the Whole.

Mr. S. SMITH laid a resolution upon the table, putting all nations upon the same footing, with respect to the selling of vessels and goods within the ports of the United States, by recommending it to be enacted, that no nation shall be allowed in future to sell their prizes within the United States.

A message was received from the Senate with the bill authorizing the sale of lands Northwest of the river Ohio, with several amendments thereto. The amendments were read and referred to a select committee.

The House resolved itself into a Committee of the Whole upon the bill for laying certain duties on carriages and for repealing a former act for the same purpose, which being gone through, the House took it up, and it was ordered to be engrossed for a third reading.

Mr. SITGREAVES, from the committee to whom was referred the memorial of certain creditors of the French Republic, residing in Philadelphia, reported that they found the extent of the claims of the memorialists sufficient to entitle them to the interference of Congress; but, as the session was drawing to a close, the select committee wished to be discharged from further consideration of the memorial, and that it might be referred to the Secretary of State, to report thereon, at the next session of Congress. The report was twice read and agreed to.

The House resolved itself into a Committee of the Whole, on the bill for authorizing Ebenezer Zane to locate certain lands Northwest of the river Ohio. After some debate thereon, in order to give time for making some inquiries on the subject, the Committee rose, and had leave to sit again.

MONDAY, May 9.

Mr. W. LYMAN, from the committee appointed to take into consideration the situation of fortifi-

cations and harbors, &c., of the United States, make a report; which was twice read and referred to a Committee of the Whole.

Mr. MURRAY presented a petition from Harrison and Sterrett, of Philadelphia, in behalf of James Swan, of Boston, respecting a bill of exchange for 120,000 dollars, drawn on Dellar, Swan and Co., of Paris, which had been transmitted by the Secretary of the Treasury, at Philadelphia, to Mr. Monroe, the American Minister at Paris, who was to transmit the amount when received to the banker of the United States at Amsterdam, which sum had been duly paid to Mr. Monroe, but which the Secretary of the Treasury here refused to pay, until he had information of the amount being received at Amsterdam; the memorialists pray relief of Congress. The petition was referred to the Committee of Claims.

The bill laying certain duties on carriages, and for repealing the former act for that purpose, was read a third time, the blanks filled up, and passed. [Coaches which before paid ten dollars a year, are advanced to fifteen, chariots from eight to twelve; coaches with pannels, from six to nine; coaches without pannels, (a description not in the former law,) six dollars; curricles, chairs, &c., advanced from two to three dollars; two-wheeled carriages of an inferior kind, advanced from one to two dollars a year.]

Mr. BOURNE reported a bill for altering the Circuit Courts in Vermont and Rhode Island; which was twice read, and ordered to be engrossed for a third reading.

Mr. GOODRICH made a report respecting an increase of the salary of the Accountant General: which was laid upon the table.

## INCREASE OF SALARIES.

Mr. S. SMITH called up the resolution laid upon the table, respecting an increase of salaries of certain public officers for the year 1796.

Mr. MACON objected to passing this resolution at the present time. If it was necessary the salaries should be advanced, it should be done in a full House. He believed the officers of the Federal Government were better paid than the officers of the State Governments. He should wish the subject to be postponed until the next session of Congress.

Mr. S. SMITH thought it was necessary to attend to the subject at present. He stated what the salaries were at present. The Secretary of State and the Secretary of the Treasury had each \$3,500; the Secretary of War \$3,000; the comptroller \$2,650; the Auditor, Treasurer, and Commissioner of Revenue, each \$2,400; the Register \$2,000; the Attorney General \$1,900; and the Purveyor \$2,000. Gentlemen must know that the advance of house-rent and living were vastly increased since the settlement of the above salaries. Any of these officers must pay from \$600 to \$1,000 for rent alone; they knew pretty well what the expense of living was at present in Philadelphia, and must see that it was impossible that their officers could live upon the above sums. If they have no fortunes of their own, they must

DOCUMENTS

LEGISLATIVE AND EXECUTIVE,

OF THE

**Congress of the United States,**

IN RELATION TO

THE PUBLIC LANDS,

FROM THE FIRST SESSION OF THE FIRST CONGRESS TO THE FIRST SESSION OF THE  
TWENTY-THIRD CONGRESS :

MARCH 4, 1789, TO JUNE 15, 1834.

---

SELECTED AND EDITED,

UNDER THE AUTHORITY OF THE SENATE OF THE UNITED STATES.

BY WALTER LOWRIE,

SECRETARY OF THE SENATE.

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**VOLUME I.**

FROM MARCH 4th, 1789, TO FEBRUARY 27th, 1809.

WASHINGTON:

PRINTED BY DUFF GREEN.

1834.

Public Lands document 48  
1800 February 19, Sixth Congress, First Session  
US House Committee, Harrison reporting

"...upon inquiring into the situation of the salt springs and licks, the property of the United States, they have been informed ... that ... (in Ohio) .. a number of persons ... are engaged in the making of salt to a very considerable extent; and that those persons, by a destructive waste of the timber in the neighborhood of the springs, are daily diminishing their value. The committee, therefore, think it advisable that measures should be immediately taken to secure to the United States the benefits arising from these springs."



interest would accrue equal to the value of them, to meet a like sum of interest accruing on the debt. Besides, should it become necessary that those people, already so numerous, and daily increasing in number, should be removed, very considerable difficulty may

attend it; and of that the Governor has long been aware, and has often represented it.

All which is respectfully submitted.

AR. ST. CLAIR.

6th CONGRESS.

No. 46.

1st Session.

### COMMISSION TO SETTLE LAND CLAIMS WITH GEORGIA.

COMMUNICATED TO THE SENATE DECEMBER 31, 1799.

UNITED STATES, December 31, 1799.

Gentlemen of the Senate:

I nominate Timothy Pickering, Secretary of State, Oliver Wolcott, Secretary of the Treasury, and Samuel Sitgreaves, esq., of Pennsylvania, to be commissioners to adjust and determine, with commissioners appointed under the legislative authority of the State of Georgia, all interfering claims of the United States and that

State, to territory situate west of the River Chattahoochee, north of the thirty-first degree of north latitude, and south of the cession made to the United States by South Carolina; and also to receive any proposals for the relinquishment or cession of the whole, or any part of the other territory claimed by the State of Georgia, and out of the ordinary jurisdiction thereof, according to the law of the United States, of the 7th of April, 1798.

JOHN ADAMS.

6th CONGRESS.

No. 47.

1st Session.

### REFUGEES FROM NOVA SCOTIA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES FEBRUARY 17, 1800.

The Secretary of War, and the Secretary and Comptroller of the Treasury, in pursuance of the act passed on the seventh day of April, 1798, entitled "An act for the relief of the refugees from the British provinces of Canada and Nova Scotia," respectfully submit to Congress the following special report on the claim of Seth Harding:

The following facts appear to be satisfactorily established:

1st. That the claimant removed from Norwich, in Connecticut, in the year 1771, to Liverpool, in Nova Scotia, and carried with him personal property of the value of about two thousand dollars.

2d. That he was for several years a member of the General Assembly; and in the year 1773 was appointed a justice of the peace, and one of the justices of the court of common pleas for Queen's county, in said province; that he lived in apparently easy and prosperous circumstances, on an income which is declared by the claimant to have amounted to about five hundred dollars per annum.

3d. That he privately retired from Nova Scotia in August, 1775, with an inconsiderable proportion of his property; that the residue left behind was sold at public auction by the commander of a British sloop of war, as the property of an enemy, and that no part thereof was afterwards recovered by the claimant.

4th. That the intention of the claimant, as declared at the time of his return to Connecticut, was, to engage actively on the side of this country, in the war which had then commenced with Great Britain.

5th. That the claimant, during the late war, commanded the brigantine Defence, equipped by the State of Connecticut; also, the States' ship Oliver Cromwell; and was afterwards promoted to command the United States' frigate Confedency: that, in every service, he was distinguished as a brave, enterprising, and successful commander, until the year 1781, when the Confedency was captured by a greatly superior force; and that the court of inquiry who investigated the causes of said capture, reported, that the conduct of the claimant had been proper and becoming his station.

6th. That, early in 1776, while he was commander of the brigantine Defence, the claimant captured three vessels, having on board a regiment of troops, five thousand stands of arms, besides supplies of ammunition, tents, and military clothing, which, at that time, were of essential importance to the public defence; that subsequently, other valuable prizes were made; and that, during the war, about eleven hundred soldiers and seamen were captured by vessels commanded by the claimant.

7th. That, owing to the depreciation of the public currency, the insolvency of prize agents, and other casualties, the claimant has, at no time, derived the emoluments which might have been reasonably expected as the result of his perseverance, bravery, and good fortune, as a naval commander.

8th. That the claimant is now in a state of poverty, unable, from age, to support himself by exertions of industry; and that the representation made by himself is believed to be true; namely, that he is indebted more than one thousand dollars, chiefly in consequence of sickness in his family.

Upon the facts before stated, and with reference to the scale of compensation established by the act of Congress above recited, we respectfully submit it as our opinion, that a grant ought to be made in favor of Seth Harding, of two thousand acres of land, to be located in such manner as Congress may please to prescribe.

All which is respectfully submitted by

JAMES McHENRY, Secretary of War.

OLIVER WOLCOTT, Sec'y of the Treasury.

JOHN STEELE, Comptroller of the Treasury.

TREASURY DEPARTMENT, February 15, 1800.

6th CONGRESS.

No. 48.

1st Session.

### SALE OF LANDS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES FEBRUARY 19, 1800.

Mr. HARRISON, from the committee appointed to inquire whether any and, if any, what alterations are necessary in the laws providing for the sale of the lands of the United States, northwest of the Ohio, made the following report:

That, upon inquiring into the situation of the salt

springs and licks, the property of the United States, they have been informed, from respectable authorities, that those on the west side of the Scioto, on the east of the Muskingum, and one or two near the Great Miami, are now in the occupancy of a number of persons who are engaged in the making of salt to a very considerable

extent; and that those persons, by a destructive waste of the timber in the neighborhood of the springs, are daily diminishing their value. The committee, therefore, think it advisable that measures should be immediately taken to secure to the United States the benefits

arising from these springs, and, therefore, submit to the House the following resolution:

*Resolved*, That all the salt springs and licks, the property of the United States, in the Territory Northwest of the Ohio, ought to be leased for a term not less than ——— nor more than ——— years.

6th CONGRESS.

No. 49.

1st Session.

## RENEWAL OF A MILITARY LAND WARRANT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES FEBRUARY 21, 1800.

Mr. DAVIS, from the committee to which was referred the petition of John Mountjoy, made the following report:

That it appears to the committee that the petitioner was a captain in the service of the United States, in the revolutionary war with Great Britain, and entitled to bounty land. It appears, also, by an extract from the office of the Secretary of War, that the land warrant of the petitioner was cut out of the book; a receipt, dated

the 26th day of February, 1793, and not signed, was left in the office. The land warrant, No. 2,492.

The committee are of opinion that, in consequence of the neglect, or the misconduct of an officer in the War Office, no loss ought to fall on the innocent party.

*Resolved, therefore*, That the Secretary of War be directed to give to John Mountjoy, late a captain in the service of the United States, a land warrant, No. 2,492, for three hundred acres of bounty land.

6th CONGRESS.

No. 50.

1st Session.

## CONFIRMATION OF AN INDIAN GRANT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES FEBRUARY 21, 1800.

Mr. HARRISON, from the committee appointed to inquire whether any and, if any, what alterations are necessary in the laws authorizing the sale of the lands of the United States northwest of the Ohio, and to which was referred the petition of Isaac Zane, have taken into consideration the said petition, and make thereon the following report:

That the petitioner states that he was made a prisoner by the Wyandot Indians, when an infant of nine years of age; with which nation he has ever since remained, having married an Indian woman, by whom he has many children; that his attachments to the white people have subjected him to numberless inconveniences and dangers during the almost continual wars which existed between the United States and the Indians until the peace of Greenville, in 1795.

That, previous to that period, a tract of land on which he now lives had been assigned to him by the Wyandot Indians, and that no idea was entertained, when that treaty was made, that the land which had been given him would fall within the boundary of the United States, (which now appears to be the case,) and, of consequence, that no provision was made in that treaty in his favor. All of which, the committee have reason to believe, is perfectly true; and it further appears from a certificate given by Governor St. Clair, the agent for Indian affairs in the Northwestern Territory, that, at a conference with the chiefs of the Wyandot nation, in the month of

October, 1799, the said chiefs declared it to be the wish of their nation that a tract of land four miles square, at a place called the Big Bottom, on Mad river, a branch of the Great Miami, should be confirmed to the said Zane, this land having been set apart for him previous to the treaty of Greenville. Having taken these circumstances into consideration, and having been creditably informed that the petitioner has, in the course of the Indian war, rendered great and repeated services to the frontier settlements, by giving information to them of any hostile design meditated against them by the Indians, at the no small risk of his life; and having, as far as his power extended, protected and sustained the unfortunate persons who were occasionally carried into captivity; the committee have concluded that the petitioner ought to have confirmed to him a tract of land equal, in some degree, to the intentions of the Indians, and to the services rendered by the petitioner to the United States; they, therefore, recommend to the House the adoption of the following resolution:

*Resolved*, That a committee be appointed to bring in a bill authorizing the President of the United States to convey, in fee simple, to Isaac Zane, two thousand five hundred and sixty acres of land, to be laid off in a square, two miles each way, at a place called the Big Bottom, on Mad river, a branch of the Great Miami river, and where the said Zane now lives.

6th CONGRESS.

No. 51.

1st Session.

## CONNECTICUT WESTERN RESERVE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES MARCH 21, 1800.

Mr. MARSHALL, from the committee to which was referred the consideration of the expediency of accepting, from the State of Connecticut, a cession of jurisdiction of the territory west of Pennsylvania, commonly called the Western Reserve of Connecticut, with directions to report by bill or otherwise, made the following report:

That, in the year 1606, on the 10th of April, James I, King of England, on the application of Sir Thomas Gates and others for a license to settle a colony in that part of America called Virginia, not possessed by any Christian

prince or people, between the thirty-fourth and forty-fifth degrees of north latitude, granted them a charter. In order to facilitate the settlement of the country, and at the request of the adventurers, he divided it into two colonies. To the first colony, consisting of the citizens of London, he granted, "That they might begin their first plantation and habitation at any place on the said coast of Virginia or America, where they shall think fit and convenient, between the said four-and-thirty and one-and-forty degrees of the said latitude; and they shall have all lands, &c., from the said first seat of their plan-

BY AUTHORITY OF CONGRESS.

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THE  
**Public Statutes at Large**  
OF THE  
UNITED STATES OF AMERICA,

FROM THE  
ORGANIZATION OF THE GOVERNMENT IN 1789, TO MARCH 3, 1845.

ARRANGED IN CHRONOLOGICAL ORDER.

WITH  
REFERENCES TO THE MATTER OF EACH ACT AND TO THE SUBSEQUENT ACTS  
ON THE SAME SUBJECT,

AND  
COPIOUS NOTES OF THE DECISIONS

OF THE  
**Courts of the United States**

CONSTRUING THOSE ACTS, AND UPON THE SUBJECTS OF THE LAWS.

WITH AN  
INDEX TO THE CONTENTS OF EACH VOLUME,  
AND A  
FULL GENERAL INDEX TO THE WHOLE WORK, IN THE CONCLUDING VOLUME.

TOGETHER WITH  
*The Declaration of Independence, the Articles of Confederation, and  
the Constitution of the United States;*  
AND ALSO,  
TABLES, IN THE LAST VOLUME, CONTAINING LISTS OF THE ACTS RELATING TO THE JUDICIARY,  
IMPOSTS AND TONNAGE, THE PUBLIC LANDS, ETC.

EDITED BY  
**RICHARD PETERS, ESQ.,**  
COUNSELLOR AT LAW.

The rights and interest of the United States in the stereotype plates from which this work is printed, are hereby recognised, acknowledged, and declared by the publishers, according to the provisions of the joint resolution of Congress, passed March 3, 1845.

VOL. II.

BOSTON:  
CHARLES C. LITTLE AND JAMES BROWN.

1845.



CHAP. LV.—*An Act to amend the act intituled "An act providing for the sale of the lands of the United States, in the territory northwest of the Ohio, and above the mouth of Kentucky river."*(a)

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That for the disposal of the lands of the United States, directed to be sold by the act, intituled "An act providing for the sale of the lands of the United States, in the territory northwest of the Ohio, and above the mouth of Kentucky river," there shall be four land offices established in the said territory: one at Cincinnati, for lands below the Little Miami, which have not heretofore been granted; one at Chilicothe, for lands east of the Scioto, south of the lands appropriated for satisfying military bounties to the late army of the United States, and west of the fifteenth range of townships; one at Marietta, for the lands east of the sixteenth range of townships, south of the before mentioned military lands, and south of a line drawn due west from the northwest corner of the first township of the second range, to the said military lands; and one at Steubenville, for the lands north of the last mentioned line, and east or north of the said military lands. Each of the said offices shall be under the direction of an officer, to be called "The Register of the Land Office," who shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall give bond to the United States, with approved security, in the sum of ten thousand dollars, for the faithful discharge of the duties of his office; and shall reside at the place where the land office is directed to be kept.

SEC. 2. *And be it further enacted,* That it shall be the duty of the surveyor-general, and he is hereby expressly enjoined, to prepare and transmit to the registers of the several land offices, before the days herein appointed for commencing sales, general plats of the lands hereby directed to be sold at the said offices respectively, and also to forward copies of each of the said plats to the Secretary of the Treasury.

SEC. 3. *And be it further enacted,* That the surveyor-general shall cause the townships west of the Muskingum, which by the above-mentioned act are directed to be sold in quarter townships, to be subdivided into half sections of three hundred and twenty acres each, as nearly as may be, by running parallel lines through the same from east to west, and from south to north, at the distance of one mile from each other, and marking corners, at the distance of each half mile on the lines running from east to west, and at the distance of each mile on those running from south to north, and making the marks, notes and descriptions, prescribed to surveyors by the above-mentioned act: And the interior lines of townships intersected by the Muskingum, and of all the townships lying east of that river, which have not been heretofore actually subdivided into sections, shall also be run and marked in the manner prescribed by the said act, for running and marking the interior lines of townships directed to be sold in sections of six hundred and forty acres each. And in all cases where the exterior lines of the townships, thus to be subdivided into sections or half sections, shall exceed or shall not extend six miles, the excess or deficiency shall be specially noted, and added to or deducted from the western and northern ranges of sections or half sections in such township, according as the error may be in running the lines from east to west, or from south to north; the sections and half sections bounded on the northern and western lines of such townships shall be sold as containing only the quantity expressed in the returns and plats respectively, and all others as containing the

STATUTE I.

May 10, 1800.

Act of May 18, 1796, ch. 29.

Act of April 18, 1818, ch. 70.

Act of March 30, 1820, ch. 26.

Four land offices established under the direction of Registers.

1803, ch. 30.

Surveyor-General to transmit certain plats.

He shall cause certain lines to be run and marked.

(a) Act of May 18, 1806, chap. 29; act of April 18, 1818, chap. 70; act of March 3, 1819, chap. 72; act of March 30, 1820, chap. 26; act of April 24, 1820, chap. 49; act of March 2, 1821, chap. 11; act of March 1, 1823, chap. 38; act of May 20, 1826, chap. 138.

complete legal quantity. And the President of the United States shall fix the compensation of the deputy surveyors, chain carriers, and axemen: *Provided*, the whole expense of surveying and marking the lines shall not exceed three dollars for every mile that shall be actually run, surveyed and marked.

Certain lands  
to be sold.

SEC. 4. *And be it further enacted*, That the lands thus subdivided (excluding the sections reserved by the above-mentioned act) shall be offered for sale in sections and half sections, subdivided as before directed at the following places and times, that is to say: Those below the Little Miami shall be offered at public vendue, in the town of Cincinnati, on the first Monday of April one thousand eight hundred and one, under the direction of the register of the land office there established, and of either the governor or secretary of the northwestern territory. The lands east of Scioto, south of the military lands, and west of the fifteenth range of townships, shall be offered in like manner for sale at Chillicothe, on the first Monday of May, one thousand eight hundred and one, under the direction of the register of the land office there established, and of either the governor or secretary of the said territory. The lands east of the sixteenth range of townships, south of the military lands and west of the Muskingum, including all the townships intersected by that river, shall be offered for sale in like manner at Marietta, on the last Monday of May, one thousand eight hundred and one, under the direction of the governor or secretary, or surveyor-general of the said territory. The sales shall remain open at each place for three weeks, and no longer. The superintendents shall observe the rules and regulations of the above-mentioned act, in classing and selling fractional with entire sections, and in keeping and transmitting accounts of the sales. All lands, remaining unsold, at the closing of either of the public sales, may be disposed of at private sale by the registers of these respective land offices, in the manner herein after prescribed; and the register of the land office at Steubenville, after the first day of July next, may proceed to sell, at private sale, the lands situate within the district assigned to his direction as herein before described, disposing of the same in sections, and classing fractional with entire sections, according to the provisions and regulations of the above-mentioned act and of this act: And the register of the land office at Marietta, after the said first day of July next, may proceed to sell at private sale, any of the lands within the district assigned to his direction as aforesaid, which are east of the river Muskingum, excluding the townships intersected by that river, disposing of the same in sections, and classing fractional with entire sections as aforesaid.

Limitation of  
the price, and  
mode of pur-  
chase and pay-  
ment.

1797, ch. 14.

Fees to be  
paid.

One fourth of  
the purchase  
money to be  
paid.

SEC. 5. *And be it further enacted*, That no lands shall be sold by virtue of this act, at either public or private sale, for less than two dollars per acre, and payment may be made for the same by all purchasers, either in specie, or in evidences of the public debt of the United States, at the rates prescribed by the act, intituled, "An act to authorize the receipt of evidences of the public debt in payment for the lands of the United States;" and shall be made in the following manner, and under the following conditions, to wit:

1. At the time of purchase, every purchaser shall, exclusively of the fees hereafter mentioned, pay six dollars for every section, and three dollars for every half section, he may have purchased, for surveying expenses, and deposit one twentieth part of the amount of purchase money, to be forfeited, if within forty days one fourth part of the purchase money, including the said twentieth part, is not paid.

2. One fourth part of the purchase money shall be paid within forty days after the day of sale as aforesaid; another fourth part shall be paid within two years; another fourth part within three years; and another fourth part within four years after the day of sale.

3. Interest, at the rate of six per cent. a year from the day of sale

shall be charged upon each of the three last payments, payable as they respectively become due.

4. A discount at the rate of eight per cent. a year, shall be allowed on any of the three last payments, which shall be paid before the same shall become due, reckoning this discount always upon the sum, which would have been demandable by the United States, on the day appointed for such payment.

5. If the first payment of one fourth part of the purchase money shall not be made within forty days after the sale, the deposit, payment and fees, paid and made by the purchaser, shall be forfeited, and the lands shall and may, from and after the day, when the payment of one fourth part of the purchase money should have been made, be disposed of at private sale, on the same terms and conditions, and in the same manner as the other lands directed by this act to be disposed of at private sale: *Provided*, that the lands which shall have been sold at public sale, and which shall, on account of such failure of payment, revert to the United States, shall not be sold at private sale, for a price less than the price that shall have been offered for the same at public sale.

6. If any tract shall not be completely paid for within one year after the date of the last payment, the tract shall be advertised for sale by the register of the land office within whose district it may lie, in at least five of the most public places in the said district, for at least thirty days before the time of sale. And he shall sell the same at public vendue, during the sitting of the court of quarter sessions of the county in which the land office is kept, for a price not less than the whole arrears due thereon, with the expenses of sale; the surplus, if any, shall be returned to the original purchaser, or to his legal representative; but if the sum due, with interest, be not bidden and paid, then the land shall revert to the United States. All monies paid therefor shall be forfeited, and the register of the land office may proceed to dispose of the same to any purchaser, as in case of other lands at private sale.

SEC. 6. *And be it further enacted*, That all and every the payments, to be made by virtue of the preceding section, shall be made either to the treasurer of the United States, or to such person or officer as shall be appointed by the President of the United States, with the advice and consent of the Senate, receiver of public monies for lands of the United States, at each of the places respectively where the public and private sales of the said lands are to be made; and the said receiver of public monies shall, before he enters upon the duties of his office, give bond with approved security, in the sum of ten thousand dollars, for the faithful discharge of his trust; and it shall be the duty of the said treasurer and receiver of public monies to give receipts for the monies by them received, to the persons respectively paying the same; to transmit within thirty days in case of public sale, and quarterly, in case of private sale, an account of all the public monies by them received, specifying the amount received from each person, and distinguishing the sums received for surveying expenses, and those received for purchase money, to the Secretary of the Treasury, and to the registers of the land office, as the case may be. The said receivers of public monies shall, within three months after receiving the same, transmit the monies by them received to the treasurer of the United States; and the receivers of public monies for the said sales, and also the receivers of public monies for the sales which have taken place at Pittsburg under the act, intituled "An act providing for the sale of the lands of the United States in the territory northwest of the Ohio, and above the mouth of Kentucky river," shall receive one per cent. on the money received, as a compensation for clerk hire, receiving, safe keeping, and transmitting it to the treasury of the United States.

SEC. 7. *And be it further enacted*, That it shall be the duty of the

Grade of purchase.

A discount allowed for payment before due.

If one fourth part is not paid the land may be sold at private sale.

If a tract is not paid for in one year, to be resold.

Act of April 15, 1806.

Payments to be made to the Treasurer or receivers of public monies.

Duty of receivers of public monies.

Act of May 18, 1796.

Their compensation.



Duty of the  
Registers of the  
land offices.

registers of the land offices respectively, to receive and enter on books kept for that purpose only, and on which no blank leaves or space shall be left between the different entries, the applications of any person or persons who may apply for the purchase of any section or half section, and who shall pay him the fee hereafter mentioned, and produce a receipt from the treasurer of the United States, or from the receiver of public monies appointed for that purpose, for three dollars for each half section such person or persons may apply for, and for at least one twentieth part of the purchase money, stating carefully in each entry the date of the application, the date of the receipt to him produced, the amount of monies specified in the said receipt, and the number of the section or half section, township and range applied for. If two or more persons shall apply at the same time for the same tract, the register shall immediately determine by lot, in presence of the parties, which of them shall have preference. He shall file the receipt for monies produced by the party, and give him a copy of his entry, and if required, a copy of the description of the tract, and a copy of the plat of the same, or either of them; and it shall be his duty to inform the party applying for any one tract, whether the same has already been entered, purchased, or paid for, and at his request to give him a copy of the entry or entries concerning the same. He shall, three months after the date of each application, if the party shall not have, within that time, produced to him a receipt of the payment of one fourth part of the purchase money, including the twentieth part above mentioned, enter under its proper date, in the said book of entries, that the payment has not been made, and that the land has reverted to the United States, and he shall make a note of the same in the margin of the book opposite to the original entry. And if the party shall, either at the time of making the original entry, or at any time within three months thereafter, produce a receipt to him, for the fourth part of the purchase money, including the twentieth part aforesaid, he shall file the receipt, make an entry of the same, under its proper date, in the said book of entries, make a note of the same in the margin of the book, opposite to the original entry, and give to the party a certificate, describing the land sold, the sum paid on account, the balance remaining due, the time and times when such balance shall become due, and that if it shall be duly discharged, the purchaser or his assignee or other legal representative, shall be entitled to a patent for the said lands; he shall also, upon any subsequent payment being made, and a receipt from the receiver being produced to him, file the original receipt, give a receipt for the same to the party, and enter the same to the credit of the party, in a book kept for that purpose, in which he shall open an account in the name of each purchaser, for each section or half section that may be sold either at public or private sale, and in which he shall charge the party for the whole purchase money, and give him credit for all his payments; making the proper charges and allowances for interest or discount, as the case may be, according to the provisions of the fourth section of this act; and upon the payment being completed and the account finally settled, he shall give a certificate of the same to the party; and on producing to the Secretary of the Treasury, the same final certificate, the President of the United States is hereby authorized to grant a patent for the lands to the said purchaser, his heirs or assigns; and all patents shall be countersigned by the Secretary of State, and recorded in his office.

Patents to be  
issued.

Registers to  
note the sales  
upon the sur-  
veys, &c.

SEC. 8. *And be it further enacted*, That the registers of the land offices respectively, shall also note on the book of surveys, or original plat transmitted to them, every tract which may be sold, by inserting the letter A on the day when the same is applied for, and the letter P on the day when a receipt for one fourth part of the purchase money is produced to them, and by crossing the said letter A on the day when the land shall

revert to the United States, on failure of the payment of one fourth part of the purchase money within three months after the date of application. And the said book of surveys or original plat shall be open at all times, in presence of the register, for the inspection of any individual, applying for the same and paying the proper fee.

SEC. 9. *And be it further enacted*, That it shall be the duty of the registers of the land offices to transmit quarterly to the Secretary of the Treasury, and to the surveyor-general, an account of the several tracts applied for, of the several tracts for which the payment of one fourth part of the purchase money has been made, of the several tracts which have reverted to the United States on failure of the said payment; and also an account of all the payments of monies by them entered, according to the receipts produced to them, specifying the sums of money, the names of the persons paying the same, the names of the officers who have received the same, and the tracts for which the same have been paid.

Registers to make certain quarterly returns.

SEC. 10. *And be it further enacted*, That the registers aforesaid shall be precluded from entering on their books any application for lands in their own name, and in the name of any other person in trust for them; and if any register shall wish to purchase any tract of land, he may do it by application in writing to the surveyor-general, who shall enter the same on books kept for that purpose by him, who shall proceed in respect to such applications, and to any payments made for the same, in the same manner which the registers by this act are directed to follow, in respect to applications made to them for lands by other persons. The registers shall, nevertheless, note on the book of surveys, or original plat, the applications and payments thus by them made, and their right to the pre-emption of any tract shall bear date from the day, when their application for the same shall have been entered by the surveyor-general in his own book. And if any person applying for any tract shall, notwithstanding he shall have received information from the register, that the same has already been applied for by the said register, or by any other person, insist to make the application, it shall be the duty of the register to enter the same, noting in the margin that the same tract is already purchased, but upon application of the party made in writing, and which he shall file, he may and shall at any future time enter under its proper date, that the party withdraws his former application, and applies in lieu thereof for any other tract: *Provided always*, that the party shall never be allowed thus to withdraw his former application, and to apply in lieu thereof for another tract, except when the tract described in his former application shall have been applied for previous to the date of that his former application.

Mode of making purchases by registers.

SEC. 11. *And be it further enacted*, That the Secretary of the Treasury shall and may prescribe such further regulations, in the manner of keeping books and accounts, by the several officers in this act mentioned, as to him may appear necessary and proper, in order fully to carry into effect the provisions of this act.

Secretary of the Treasury may prescribe further regulations.

SEC. 12. *And be it further enacted*, That the registers of the land offices, respectively, shall be entitled to receive from the treasury of the United States, one half per cent. on all the monies expressed in the receipts by them filed and entered, and of which they shall have transmitted an account to the Secretary of the Treasury, as directed by this act; and they shall further be entitled to receive, for their own use, from the respective parties, the following fees for services rendered, that is to say; for every original application for land, and a copy of the same, for a section three dollars, for a half section two dollars; for every certificate stating that the first fourth part of the purchase money is paid, twenty-five cents; for every subsequent receipt for monies paid, twenty-five cents; for the final settlement of account and giving the final certificate of the same, one dollar; for every copy, either of an application or of

Allowance to the Registers.



the description of any section or half section, or of the plat of the same, or of any entry made on their books, or of any certificate heretofore given by them, twenty-five cents for each; and for any general inspection of the book of surveys, or general plat, made in their presence, twenty-five cents.

Allowance to superintendents of public sales.

1796, ch. 29.

Patent fees.

1804, ch. 35.

Leases of the reservations may be given by the Surveyor General.

Pre-emption right given to builders of mills.

Repeal of part of the former act.

1796, ch. 29.

SEC. 13. *And be it further enacted*, That the superintendents of the public sales, to be made by virtue of this act, and the superintendents of the sales which have taken place by virtue of the act, intituled "An act providing for the sale of the lands of the United States in the territory northwest of the river Ohio, and above the mouth of Kentucky river," shall receive five dollars a day for every day whilst engaged in that business; and the accounting officers of the treasury are hereby authorized to allow a reasonable compensation for books, stationery and clerk hire, in settling the accounts of the said superintendents.

SEC. 14. *And be it further enacted*, That the fee to be paid for each patent for half a section shall be four dollars, and for every section five dollars, to be accounted for by the receiver of the same.

SEC. 15. *And be it further enacted*, That the lands of the United States reserved for future disposition, may be let upon leases by the surveyor-general, in sections or half sections, for terms not exceeding seven years, on condition of making such improvements as he shall deem reasonable.

SEC. 16. *And be it further enacted*, That each person who, before the passing of this act, shall have erected, or begun to erect, a grist-mill or saw-mill upon any of the lands herein directed to be sold, shall be entitled to the pre-emption of the section including such mill, at the rate of two dollars per acre: *Provided*, the person or his heirs, claiming such right of pre-emption, shall produce to the register of the land office satisfactory evidence that he or they are entitled thereto, and shall be subject to and comply with the regulations and provisions by this act prescribed for other purchasers.

SEC. 17. *And be it further enacted*, That so much of the act, providing for the sale of the lands of the United States in the territory northwest of the river Ohio, and above the mouth of Kentucky river, as comes within the purview of this act, be, and the same is hereby repealed.

APPROVED, May 10, 1800.

STATUTE I.

May 10, 1800.

Repealed by Act of May 1, 1810, ch. 44.

Salaries of public ministers.

Settlement of accounts.

CHAP. LVI.—*An Act to ascertain the compensation of public Ministers.*(a)

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That exclusive of an outfit which shall in no case exceed the amount of one year's full salary to any minister plenipotentiary or chargé des affaires, to whom the same may be allowed, the President of the United States shall not allow to any minister plenipotentiary a greater sum than at the rate of nine thousand dollars per annum, as a compensation for all his personal services and expenses: nor a greater sum for the same than four thousand five hundred dollars per annum to a chargé des affaires: nor a greater sum for the same than one thousand three hundred and fifty dollars per annum to the secretary of any minister plenipotentiary.

SEC. 2. *And be it further enacted*, That where any sum or sums of money shall be drawn from the treasury, under any law making appropriation for the contingent expenses of intercourse between the United States and foreign nations, the President shall be, and he hereby is authorized to cause the same to be duly settled, annually, with the ac-

(a) See an act fixing the compensation of public ministers and consuls, residing on the coast of Barbary, and for other purposes, May 1, 1810, chap. 44.



thousand dollars be, and the same is hereby appropriated for the purpose of carrying this act into effect; which sum shall be paid out of any unappropriated monies in the treasury.

Appropriation for the execution of this act.

SEC. 16. *And be it further enacted*, That the nett proceeds of the lands which may be sold by virtue of this act, after deducting the surveying expenses and other expenses incident to the sale thereof, shall, and the same are hereby appropriated in the first place, towards paying to the state of Georgia a sum of one million two hundred and fifty thousand dollars, in pursuance of the articles of agreement and cession entered into between the United States and that state; and the Secretary of the Treasury is hereby authorized and directed to pay accordingly, and from time to time, as the same shall be received in the treasury of the United States, so much of the said nett proceeds as will amount to the said sum of one million two hundred and fifty thousand dollars.

Appropriation of the monies arising from the above sales.

SEC. 17. *And be it further enacted*, That all navigable rivers within the territory of the United States, south of the state of Tennessee, shall be deemed to be and remain public highways.

Navigable rivers south of Tennessee to remain public.

APPROVED, March 3, 1803.

STATUTE II.

CHAP. XXVIII.—*An Act concerning the Salt Springs on the waters of the Wabash river.*

March 3, 1803.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That for the purpose of procuring articles necessary to the establishment of salt works, at the springs near the Wabash river, which have been ceded to the United States, by certain Indian tribes, the sum of three thousand dollars be, and the same is hereby appropriated, to be paid out of any unappropriated money in the treasury, and under the direction of the President of the United States, who is hereby authorized to cause the said springs to be worked at the expense of the United States; or, if he shall deem it more proper, to lease the same for a term not exceeding three years, on such conditions as will insure the working the same most extensively, and to the most advantage to the United States.

[Obsolete.]

Salt works to be established on the Wabash river.

APPROVED, March 3, 1803.

1807, ch. 46.

STATUTE II.

CHAP. XXIX.—*An Act concerning the City of Washington.*

March 3, 1803.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the superintendent of the city of Washington shall be, and he hereby is allowed as a compensation for his services, a salary of one thousand two hundred dollars, annually.

[Obsolete.]

Salary of the superintendent.

SEC. 2. *And be it further enacted*, That the surveyor of the city shall receive as a compensation for his services, an allowance of three dollars for every day during which he shall be actually employed.

Allowance to the surveyor.

SEC. 3. *And be it further enacted*, That the following sums be, and the same hereby are appropriated for defraying the expense in relation to the said officers, that is to say:

Sums appropriated.

For the salary of the superintendent for the year one thousand eight hundred and three, including an allowance at the same rate for six months of the preceding year, one thousand eight hundred dollars.

For clerk hire in his office, five hundred dollars.

For the wages of the surveyor, one thousand dollars.

For a messenger to both offices, and also to attend the surveyor in the field, two hundred dollars.

For fuel, stationery and other contingent expenses of both offices, two hundred dollars.

DOCUMENTS,  
LEGISLATIVE AND EXECUTIVE,  
OF THE  
**Congress of the United States,**

IN RELATION TO

THE PUBLIC LANDS,

FROM THE FIRST SESSION OF THE FIRST CONGRESS TO THE FIRST SESSION OF THE  
TWENTY-THIRD CONGRESS:

MARCH 4, 1789, TO JUNE 15, 1834.

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SELECTED AND EDITED,  
UNDER THE AUTHORITY OF THE SENATE OF THE UNITED STATES,  
BY WALTER LOWRIE,  
SECRETARY OF THE SENATE.

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**VOLUME III.**

FROM DECEMBER 22, 1815, TO MAY 26, 1824.

WASHINGTON:  
PRINTED BY DUFF GREEN.

1834.

Public Lands document 241  
1816 February 13  
US House Committee, Middleton reporting  
Lands containing precious metals

(The committee) are not unaware that the true wealth of a nation consists in the abundance of those articles of prime necessity which either serve to the subsistence of man, or which exercise his industry; yet, the precious metals, in themselves destitute of intrinsic value, having become the conventional signs of value among all civilized nations, their abundance or scarcity cannot be a matter of indifference -- the search for them, wherever they are to be found, is a pursuit of the most inviting kind, and powerfully stimulates the cupidity of mankind...it must be desirable so to direct and control the operation, as to enable the Government simultaneously to derive a fair advantage from its possessions, without imposing such tax or duty as might induce the clandestine and fraudulent extraction of the precious metals from the public domain.“



## LEAD MINES AND SALINES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES JANUARY 21, 1817.

TREASURY DEPARTMENT,  
20th January, 1817.

SIR: In obedience to a resolution of the House of Representatives of the 17th of April, 1816, requiring the Secretary of the Treasury to procure all the information which he is able to obtain in relation to the lead mines of the United States in the counties of Washington and St. Genevieve, in the Mississippi Territory, and to report the same to the House of Representatives at the next session of Congress, I have the honor to transmit the enclosed correspondence between the Commissioner of the General Land Office and the registers and other officers employed in the land department, and other persons possessing information upon the subject.

I have the honor to be, your most obedient and very humble servant,

WM. H. CRAWFORD.

HONORABLE HENRY CLAY,  
Speaker of the House of Reps.

GENERAL LAND OFFICE,  
December 19, 1816.

SIR: On the 29th of June last, I received a letter from the Secretary of the Treasury, requesting me to communicate such information as I possessed, or could obtain relative to the lead mines and salines belonging to the United States, viz.

1st. The situation of the lead mines—their extent—their products—the general character of the ore—their value.  
2d. The nature of the adjacent country—the proximity of towns and settlements—the facilities of land and water transportation.

3d. The state of the title generally—the grants and leases of the mines and neighboring lands—the intrusions, either permanent or transitory—the improvements.

4th. The terms on which grants or leases may be made most advantageously to the public—the reservations that should be made—the extent of the lease and the limitation of the demise—the improvements to be made in buildings, works, fences—the timber to be preserved.

5th. Similar information relative to salt works and salt springs.

A circular letter was sent from this office, on the 3d of July last, to the registers of the land offices, to the surveyors general, to the United States' agent for the saline in Illinois Territory, to the recorder of land titles in Missouri Territory, and to several gentlemen (not in the public service) from whom valuable information was expected.

The substance of the information hitherto received is herewith presented in the papers No. 1 to 12, accompanied with topographical sketches.

Among those papers the most interesting appear to be No. 11, from Moses Austin, esq., relative to lead mines, and No. 12, those of the agent for the saline in the Illinois Territory, and of Nathaniel Pope, esq., delegate from that Territory.

From the report No. 9 it appears probable that salines of great value exist in the Missouri Territory, about one hundred and fifty or two hundred miles westwardly of St. Louis.

From the whole of the information hitherto received, it appears that lead, in considerable quantities, is found only on the west side of the Mississippi; that salines are not unfrequent in the States of Ohio and Indiana, and in the Territories of Illinois and Missouri, in Western Louisiana, and in the Mississippi Territory; and that the future management and regulation of the lead mines in Missouri, and of the saline on the Wabash, are evidently of more importance than any other on which information has been obtained.

I have the honor to be, very respectfully, yours,  
JOSIAH MEIGS.

The SECRETARY of the Treasury.

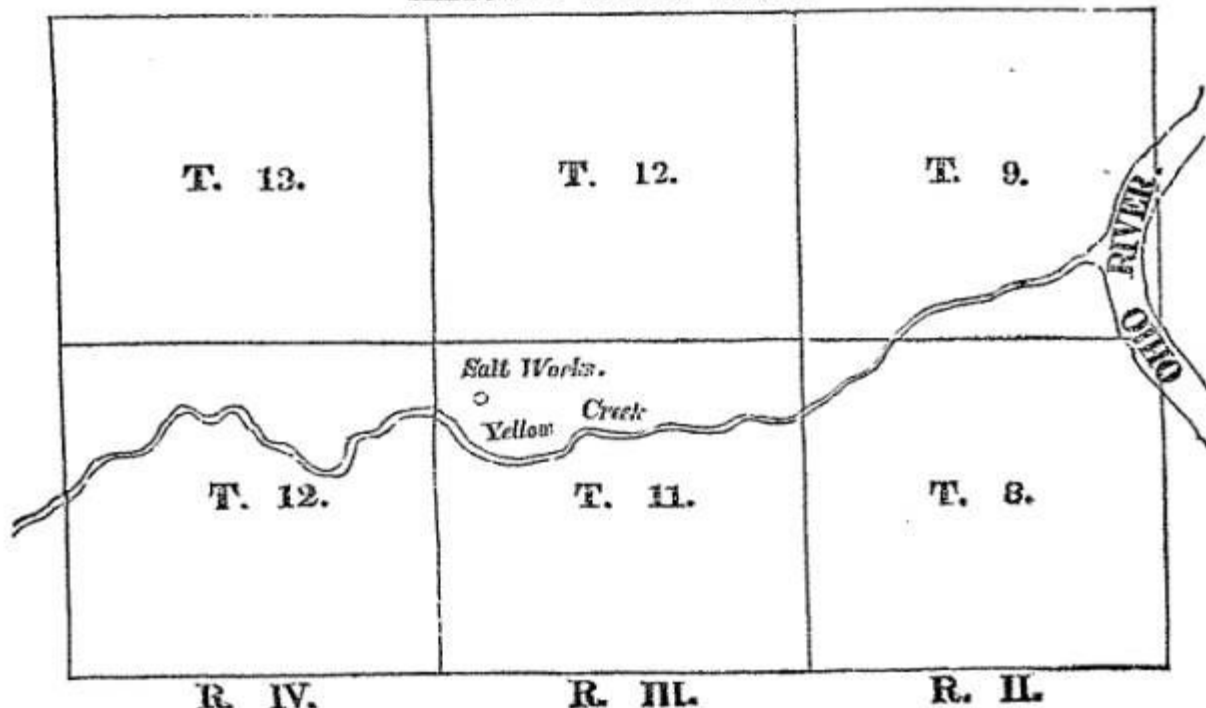
## I.

## LEAD MINES AND SALT SPRINGS OR SALINES.

Report of David Hove, Register of the Land Office at Steubenville, Ohio, August 5, 1806.

1. No lead mines in Ohio yet discovered.
2. One salt spring in Yellow creek, in sect. 3, T. 11, R. 3, twenty miles northwesterly of Steubenville.
3. The existing lease of this spring will expire August 12, 1817.
4. This spring yields about twelve bushels a day. It is badly managed.
5. On Yellow creek are about twelve salt works. From four to six cords of wood consumed to make twelve bushels.
6. Policy of reserving salt springs doubtful. Leases should be at least for a term of ten years.
7. Discovery by small crystals of salt in the beds of water courses in hot and dry weather, and by bees collecting on the gravel.
8. Yellow creek is about twenty miles long. It flows through towns 12, 11, 8, 9, of ranges 4, 3, 2, 1, and enters the river Ohio, in sect. 3, T. 9, R. 2.

SKETCH OF YELLOW CREEK.



## II.

## LEAD MINES AND SALT SPRINGS.

*Report of Wyllis Silliman, Register of the Land Office at Zanesville, Ohio.*

No lead mines have been discovered in the district of Zanesville.

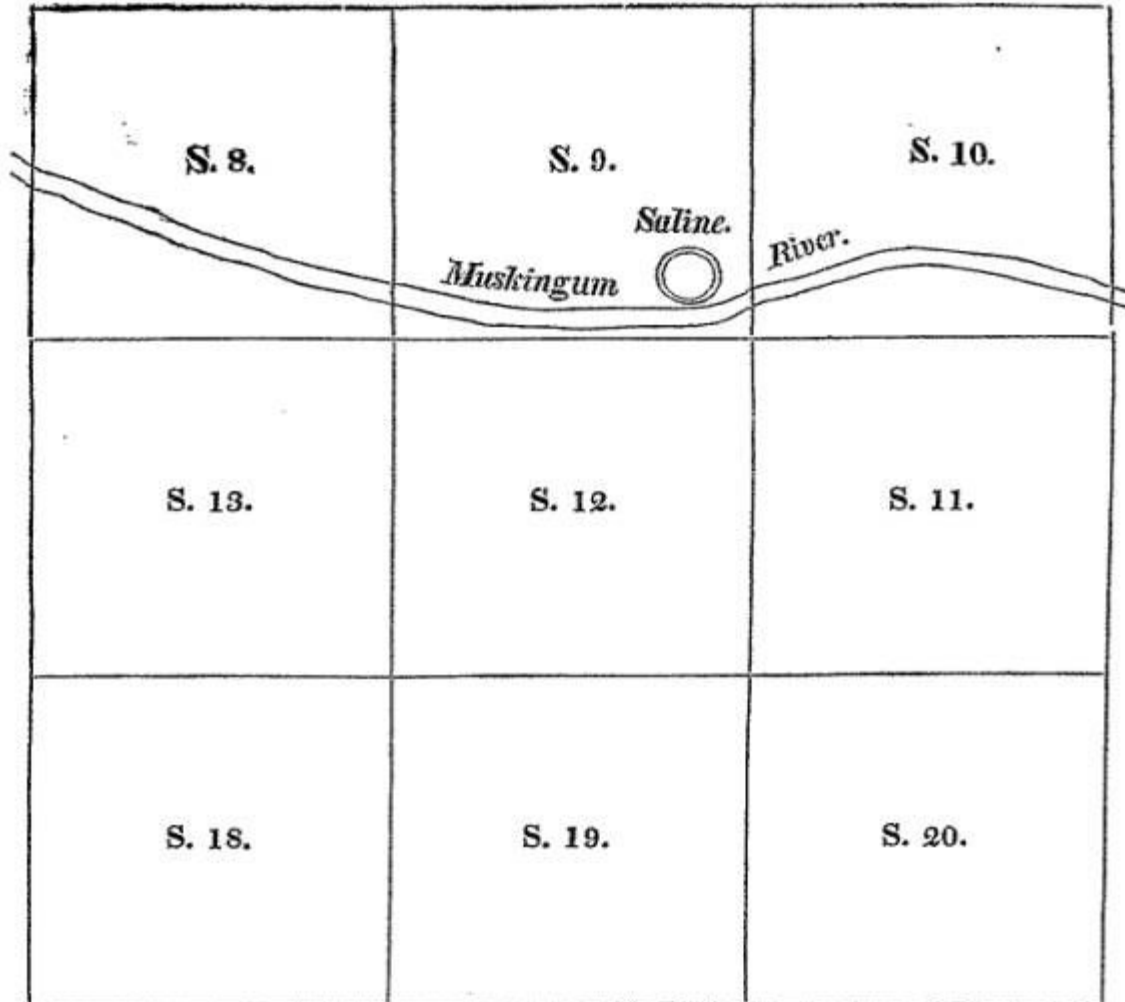
Salt water is found in great quantities, and of good quality in many parts of the district. The quality is inferior to that found on the Kenhawa, Virginia, from whence a large proportion of the salt used in this part of Ohio is brought.

One salt spring only belongs to the United States, viz. sect. 9, T. 11, R. 13, on the banks of the Muskingum. Its situation eligible. Navigation to the place, and for many miles above, (and to the Ohio,) good for large boats five or six months of the year, and for large keel boats at all times.

This section contains but little more than five hundred acres. Several sections adjoining it on the south are vacant, and tolerably well timbered. Good policy to reserve the sections adjoining.

## PART OF TOWNSHIP 11, RANGE 13, ZANESVILLE DISTRICT,

*About nine miles northeast of Zanesville.*



## III.

## LEAD MINES AND SALINES.

*Report of Thomas Freeman, Surveyor General for Lands south of Tennessee, St. Stephens, Sept. 30, 1816.*

1. No lead mines within the district of the United States, south of Tennessee.

2. There are two or three small salt springs in the land district east of Pearl river, on the east side of Tombigbee river.

3. There are extensive salt works and springs in the north district of the State of Louisiana, about ten miles north of the town of Natchitoches, on a branch of Red river.

4. There is a large and valuable salt spring on the Sabine river, in the southwest district of Louisiana.

Promises further information.

## IV.

## LEAD MINES AND SALINES.

*Report of Lewis Sewall, Register of the Land Office at St. Stephens, dated August 12, 1816.*

1. The only salines in this district where salt has been made for sale, lie on the east side of Tombigbee. There are three: the first, two or three miles from St. Stephens; the second and third are lower down the river.

2. At one of these Salines, 100 gallons of water yield one bushel of salt of fifty-two pounds, and water sufficient to yield 250 bushels a day.

3. At another, 200 gallons are necessary for one bushel, and water for 300 bushels a day.

4. At the third saline, 240 gallons of water are required for one bushel, and 200 bushels may be made in a day.

5. The vicinity of these salines to the ocean, and the river being navigable higher up than the salines, for vessels of a considerable burden, renders these salines of little value, except in time of war, when external supplies may be cut off.

6. Good roads are, or may be made from the salines to the river, which affords an inland barge navigation 200 miles to the northward.

7. Recommends a reservation of two sections of land for fuel for each saline.

8. Leases ought to be for at least ten years.


9. An offer has been made to employ 200 kettles, to sell the salt at the works, at seventy-five cents a bushel or fifty pounds weight, and to pay a rent of 200 dollars a year for three years.

10. No lead mines in the district.

The register has not given precise descriptions of the position of the salines, but they are below St. Stephens. [For plats accompanying III. and IV. see next page.]

Latitude 32° North.


Poslethwaits Salt Works.

Natchitoches. 

Lake Paillet.

**NATCHITOCHES.**

[Plat to No. III.]

Fort St. Stephens. 

[Plat to No. IV.]


Salines 

Salines 


Salines 

Tombigbee River

Alabama River

Fort Mims. 

Fort Stoddart 

MOBILE 

Mobile Bay



V.

LEAD MINES AND SALINES.

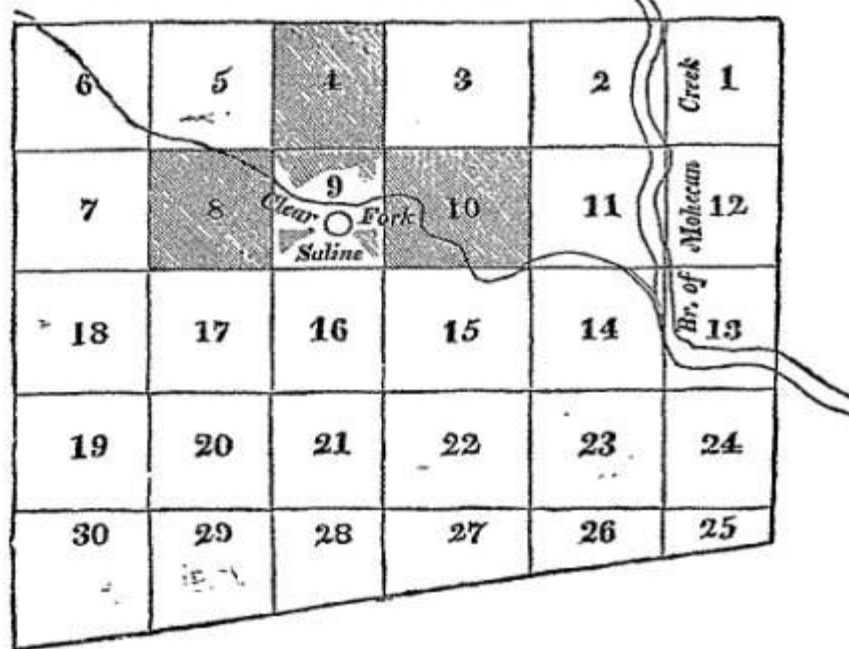
*Report of Reasin Beall, Register of the Land Office for the District of Canton, dated Wooster, September 6, 1816.*

1. No lead mines in the district.
2. One saline marked on the general plat of surveys, viz. Sect. 9, T. 19, R. 16, on Clear Fork of Mohegan creek, a branch of the Muskingum, navigable for small craft.
3. The sections 4, 8, 10, in the vicinity, are reserved for the use of this saline.
4. He believes that no one will lease the salines under the existing laws, because, 1st. The term of three

years is too short to justify expenses of the experiment. 2d. In the vicinity of this saline, and, indeed, in almost any place near the streams in this district, where the hills are high and the valleys narrow, salt water can be obtained at the depth of from 200 to 300 feet, with as much certainty at least as to sink at the Licks, which must be done in the first instance. Of course those who incline to embark in salt-making, will prefer trying the experiment on their own lands.

5. Recommends a public sale of the saline (sect. 9, T. 19, R. 16) and the adjoining tracts, (viz. sect. 4, 8, 10,) as promising greater advantage to the United States than the leasing of those on any terms that could be obtained.

TOWNSHIP 19, RANGE 16, DISTRICT OF CANTON.



Mohegan creek is a branch of the river Muskingum which is in section 9.

Sections 4, 8, 10 are reserved for the use of the saline

VI.

LEAD MINES AND SALINES.

*Report of Daniel Symmes, Register of the Land Office at Cincinnati, dated September 15, 1816.*

1. No lead mine yet known in the district.
2. Several attempts have been made to obtain salt-water by boring, but none has hitherto been discovered worth the trouble of improving.

VII.—LEAD MINES AND SALINES.

*Report of Joseph Wood, Register of the Land Office for the District of Marietta, July 31, 1816.*

No lead mines or salines in the district.

VII.

LEAD MINES AND SALINES.

*Report of Samuel Gwathmey, Register of the Land Office for the District of Jeffersonville, dated November 7, 1816.*

1. No lead mines in the district.
2. No salines of any considerable magnitude.
3. Two salines are reserved for the United States, viz. 1st. Sect. 15, T. 2, north, R. 4, east. 2d. Do. 28, T. 3, north, do.
4. Neither of these salines is worked at present; nor is it thought they ever can be to any advantage, either to the Government or an individual.
5. The first mentioned saline is on the head water of Great Blue river, a branch of the Ohio. The second is on a branch of the Muskiatuck, a branch of White river—a branch of the Wabash. [See plat next page.]

VIII.

LEAD MINES AND SALINES.

*Report of Samuel H. Harper, Register of the Land Office for the District of New Orleans. August 16, 1816.*

He has no knowledge of any lead mines or salines belonging to the United States in the district of New Orleans, except one said to be in the county of Attakapas, in the western district.

IX.

LEAD MINES AND SALINES.

*Report of Alexander MacNair, Register of the Land Office for the District of Saint Louis, Missouri Territory, dated October 20, 1816.*

1. He encloses a request for the lease of a saline situated on the middle fork of the river La Moine, about ten miles distant from the Missouri, and about two hundred miles above St. Louis. [For plat, see page 240.]

2. No lease has been granted.

3. The petitioners for a lease represent the saline as being uncommonly rich, and capable of being wrought to great advantage.

4. This saline is in the vicinity of a fertile tract of country, which is rapidly populating, and which must be supplied with salt from this source, or from some other of the numerous salines discovered in that quarter.

X.

LEAD MINES AND SALINES.

*Report of John Read, Register of the Land Office for the District of Madison County, Mississippi Territory, September 1, 1816.*

He knows not of any lead mines or salt springs within the district.

XI.

LEAD MINES AND SALINES.

*Report of Moses Austin, esq., dated Mine à Burton, Washington County, Missouri Territory.*

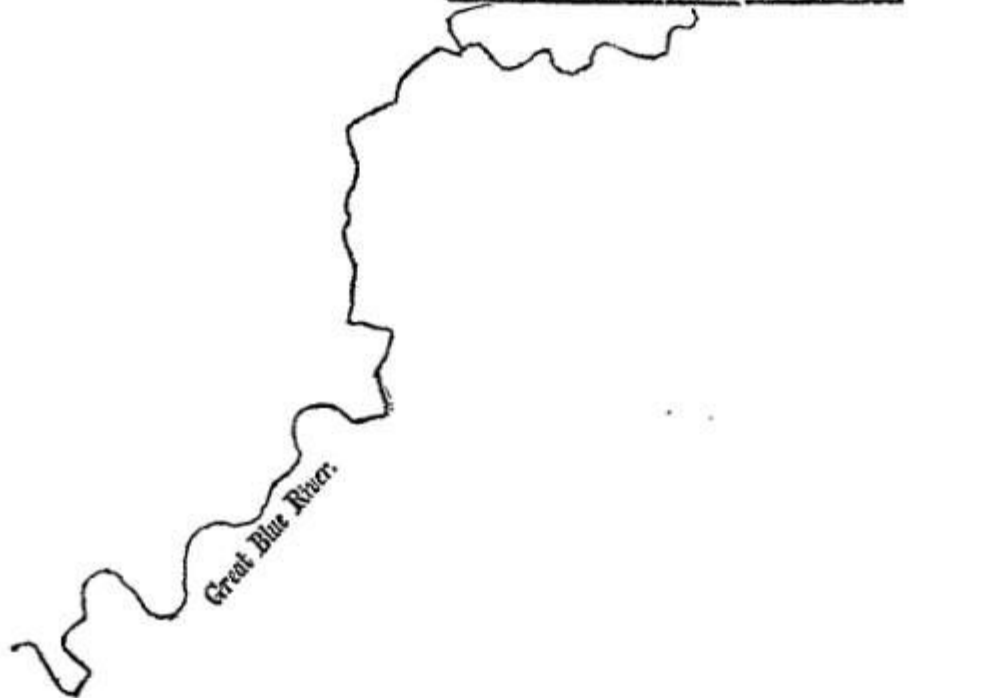
His report [see No. 407] is probably of more virtue than any other that can be expected. It is the result of the experience, for many years, of the business of lead mines, by a gentleman of intelligence and accurate observation.

We have no actual survey of the lead mine district described by Mr. Austin in the annexed report. I have caused a sketch to be drawn from his description; it accompanies this. [See plat facing page 240.]

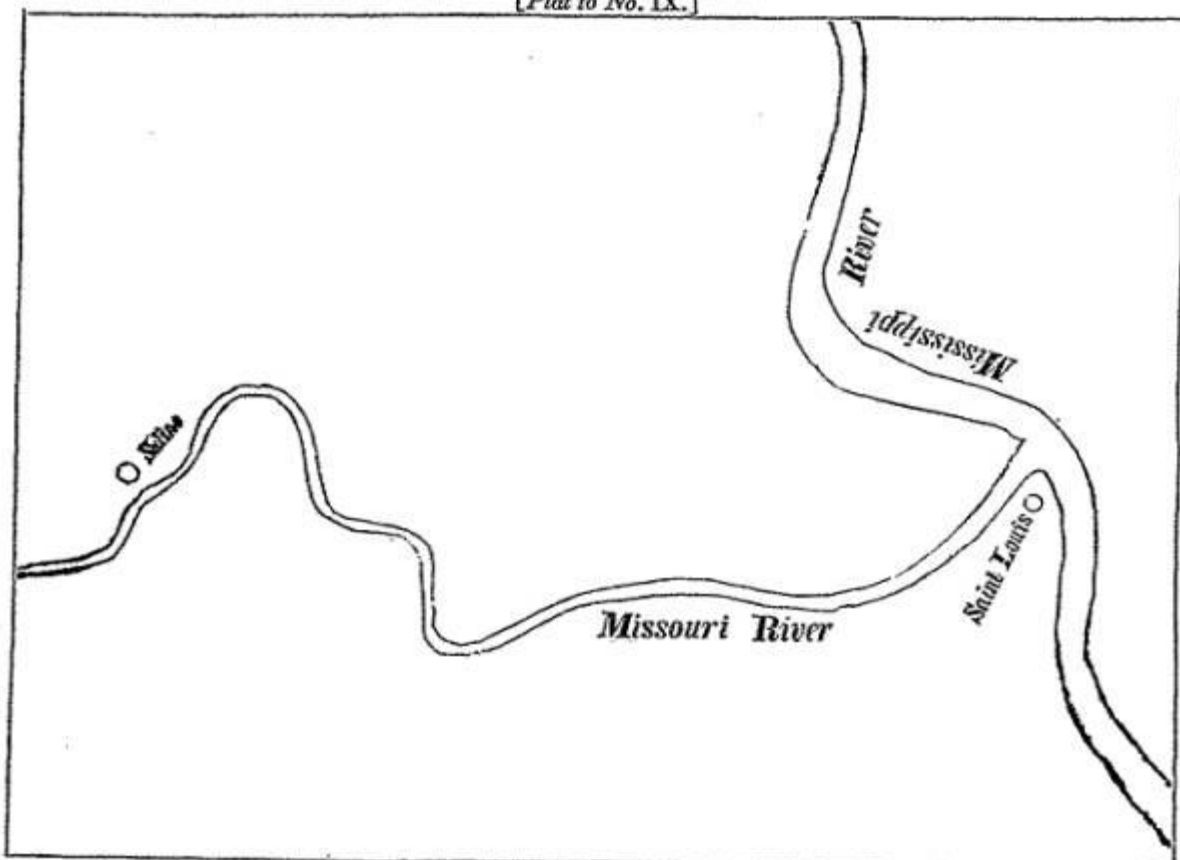
Further valuable information relative to these mines is daily expected from the recorder of land titles for the Territory of Missouri, which, when received, shall be communicated to the Secretary.

[Plat to No. VII.]

Towns 2 and 3, north, range 4, east, district of Jeffersonville.  
 The distance between section 15, of town 2, and the mouth of Great Blue river, on the Ohio, is about forty miles.



[Plat to No. IX.]



## XII.

## LEAD MINES AND SALINES.

Report of Leonard White, agent for the United States Saline on the Wabash, August 17, 1816.

Letter from N. Pope, esquire, Delegate from the Illinois Territory.

Mr. White having been for some years United States agent for the saline, his report is deemed worthy of particular attention.

A sketch of the reservation at the Saline accompanies this. [See plat No. 2.]

Also, a letter of Leonard White's, dated 15th November, 1816, and a plat of the salt works. [See plat No. 3.]

LAND OFFICE AT EDWARDSVILLE,  
2d December, 1816.

SIR: From my recent arrival to this country, and a desire to obtain the most satisfactory information in my power relative to the lead mines and salt springs of this Territory, has induced me to defer until this time an answer to your circular of the 3d July last.

The result of my inquiries, however, has not been so satisfactory as I could wish. On the Ohio there is said to be considerable quantities of lead ore, which, with a large tract of land including it, was some few years ago leased by Governor Edwards; but the lessee failed to make any experiments upon it, and consequently its value is entirely unknown.

I know of no other lead mines in the Territory, except those which lie above Rock river, and on the Mississippi and Ouiskonsin rivers.

Those, for extent and richness, are universally believed by all who have seen them, and from many partial experiments, to be inferior to none in the world. They, however, lie north of a due west line from the southern extremity of Lake Michigan to the Mississippi river, and are included, as I am informed by Governor Edwards, in a tract of country which the Commissioners appointed to treat with the Indians of the Mississippi and its waters were directed to recede to the Indians.

The same gentleman informs me that the Commissioners were fortunate enough to succeed in introducing it into the treaty. They were instructed to make a stipulation which authorizes the President to reserve, besides three leagues square at the mouth of Ouiskonsin, any number of tracts, on and near to the Mississippi and Ouiskonsin rivers, that should not in the whole amount to more than would be contained in five leagues square. These reservations, it is thought, will be sufficient to save

the most valuable of those mines. Should the President avail himself of the stipulation, the sooner those mines are selected and worked the better it will be; because, otherwise, the Indians will begin to think we have no right to them, which happens in most cases where they are left for any considerable time in the possession of property they are stipulated to cede.

Those mines are a considerable distance from the settled parts of the Territory, and the greatest difficulty will be in supplying the necessary provisions upon the cheapest terms by producing a competition amongst them.

For this purpose, I think it would be advisable that an agent should be appointed to reside at the mines, who should permit all persons, who may go up, to work such parts of them as may be unoccupied, for such a portion of the mineral as experience shall show to be just and reasonable, without confining them to a longer term than they shall choose to continue.

By these means it is believed that those mines will the sooner be explored and more extensively worked than by leasing them to individuals or companies for a term of years; or, if a better plan should be preferred, it ought not to be to the entire exclusion of the farmer; for if the farmers of this country, when carrying up a boat load of provisions, be permitted to work a part of the mines upon reasonable terms, until, by this means and the sale of provisions, they could get a boat load of lead to return with, there are a vast number of them who would avail themselves of all leisure seasons for those purposes; which of all other plans would have the greatest tendency to render provisions cheap and plenty.

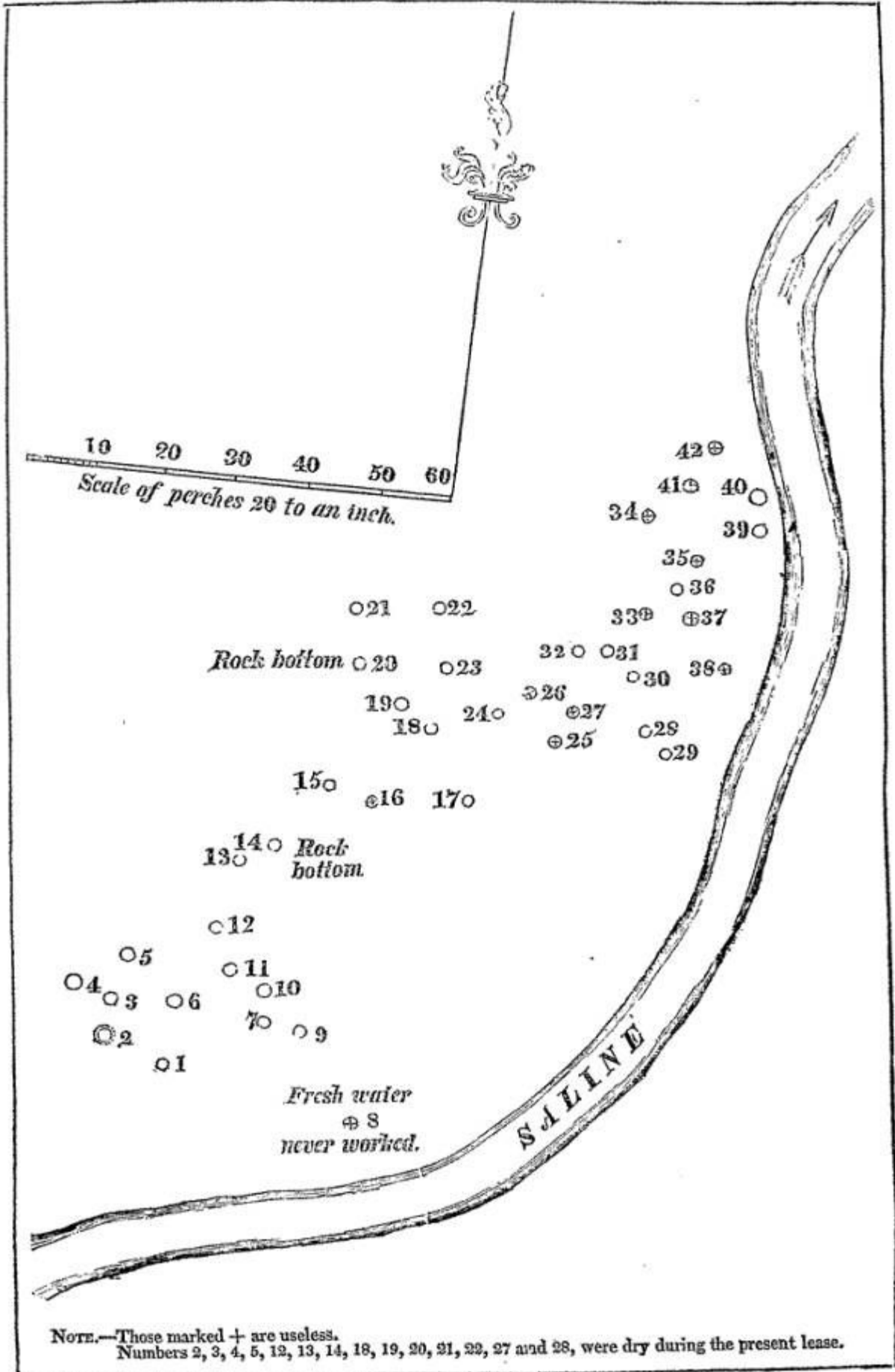
Of salt springs, I know of none in this Territory, except the United States' Wabash Saline, which I passed through on my way to this place, and one on Muddy, I have been informed of; both of which I believe are in operation under leases of the Government; and even of them, I know too little to justify me in giving any opinion concerning them. I am informed, and have reason to believe, that there are several valuable salines north of the river Illinois; but, owing to the late war with the Indians, and to the tract of country in which they are contained having until lately been disputed, they have not been sufficiently tested to warrant me in making any representations at present concerning them.

I am, sir, respectfully, your most obedient servant,  
JOHN MCKEE,

Register of the Land Office at Edwardsville.  
MR. JOSIAH MEIGS,  
Commissioner of the General Land Office.



MAP OF THE NUMBER OF WELLS IN THE HALF MOON LICK,  
*Exhibiting the precise situation and distance of one from the other.*



UNITED STATES' SALINE, Nov. 15, 1816.

SIR: In addition to a communication I had the honor of making to you on the 17th August, I will beg leave to add that, for some time, I have been convinced that the works at this place have been extended beyond the real interest of the United States. To explain this fact, I have caused a survey of the place to be made, a plat of which I herewith transmit. [See preceding page.] By comparing it with one I transmitted in the year 1810, you will at once observe that, at that time, there were fourteen wells worked, and five useless; at this time there are thirty wells used, and twelve thrown idle. In 1810, there were five establishments, working four furnaces each, which manufactured at the rate of 126,000 bushels of salt per annum: a greater quantity than has ever been returned to me since, and I believe a greater quantity than has been made. In 1814, there was made 124,685 bushels; in 1815, I received no return, but I believe there was not so much made, notwithstanding the increased number of wells and establishments; and it is a fact, the water has been getting weaker as the number of wells increase; which I account for in this way, that scarcely a spring season arrives but what the wells are overflowed, and there being so many to receive and retain the fresh water, and particularly those that are not worked at all, out of which this water is not drawn, and from which it communicates to those that are worked; not only so, but those wells are thrown away, because they get too fresh to be worked, by fresh water breaking into them, and being very near to those that are worked, they communicate with them, and it follows, of course, that the whole becomes weaker. To obviate this, I presume if all the useless wells were filled up with earth, and no more suffered to be dug, it would have a good effect; indeed, I believe if all the wells were filled up except sixteen, the water would shortly be as good as ever it was. Heretofore, the Government have required the lessees to make more salt than there really was water to do it with: this, I presume, was done to make the article as plenty and as cheap as possible to the consumer; but there is now no necessity for this precaution, because the article has become so plenty, from the Kenawha and other places, that it has brought the price almost below what it can be made for at this place, and I am of opinion that no person will be found to lease it in the way that it has heretofore been leased, (to wit,) pay for the metal and improvements in advance; but I think it may be leased if the Government furnishes the metal, &c., to be returned at the expiration of the lease, in as good order as when they were received. I would also beg leave to suggest the propriety of leasing some time previous to the expiration of the present lease, so as to give the new lessees an opportunity of procuring the supplies necessary to carry on the works.

I have the honor, &c.,

LEON'D WHITE,  
Agent U. S. Saline.

JOSIAH MEIGS, Esq.,  
Commissioner General Land Office.

UNITED STATES' SALINE, 17th August, 1816.

SIR: I have had the honor to receive yours of the 3d ultimo, wherein I am requested to communicate to you any information I may possess relating to lead mines and salt springs belonging to the United States.

As respects lead mines, I possess but little information on that subject, never having had my attention drawn to that object.

Salt springs, as they are the only salt springs belonging to the United States with which I am particularly acquainted, I will confine my observations to them alone, and, more particularly, to your fourth proposition.

The present lease for this place expires on the 17th day of March next, upon which I will beg leave to observe that, hitherto, the United States have required the new lessee to pay to the old the price of the mettle and improvements, which amounted to a considerable sum, and has operated as a bar to the practical salt-makers, and prevents them from engaging with the United States in the business, and consequently, they become sub-lessees under the lessee, and thereby creates a third party over whom the United States have no immediate control.

Under the present lease, there are so many more of this class than can actually get water, that they have injured the place considerably, first, in using so much more timber for pipes, troughs, &c., than was really necessary; and, secondly, by erecting so many establishments: all of which for the want of water making no more salt than perhaps little more than half the number would have done; by which means the expenses of the place were greatly augmented, and the means of payment not increased in proportion, thereby injuring the credit of the place.

To avoid which I would beg leave, most respectfully, to suggest the following plan for leasing this place. The United States to own all the property attached to the premises, including kettles, (the present being a favorable time to do so, the lessees being largely indebted to them,) divide the lick into five parts: the half-moon lick composing four parts, and the saline spring or lower lick one.

Lease the kettles, &c., with the premises, to be returned in as good order as when they received them, to any persons who will give the greatest quantity of salt per annum, payable weekly or monthly, and for a failure to pay rent, or a breach of any of the stipulations of his contract, to be dispossessed, binding him, as at present, to commit no waste of timber. By this means the United States could, at any time, when improper conduct existed, get into possession, and lease again without doing any individual a great injury, as the only property belonging to the salt-maker would be moveable.

Should this plan meet the approbation of Government, the extent to be leased by each one ought to be laid off previous to leasing, both for water and wood, off of which he ought not to be suffered to go while any timber remained on his lot: this would prevent them from trespassing on one another. Improvements for salt-making are rather of a temporary nature, (being often removed,) and ought to be made by the salt-maker.

Though there are some improvements that might be an advantage to the United States to make. A tavern, for the accommodation of travellers and others, appears to be indispensably necessary, and, for the want of a convenient house, this has been hitherto badly done.

I would also suggest the propriety of the Government building a tolerably comfortable house for the residence of the United States' agent. The reservation for this place.

The intruders on this tract increase, and experience convinces me that their improvements must be destroyed before they will leave it. In fact, if one set leaves it, another comes on it immediately, and they no longer pay any attention to a threat from me.

I am, &c.,

LEON'D WHITE.

HON. JOSIAH MEIGS.

WASHINGTON, December 12, 1816.

SIR: Having called on you a few days ago, to remind you that the present lease of the United States' saline near the Wabash, in the Illinois Territory, was about to expire, and having been requested by you to suggest a project for leasing it, I beg leave to submit the following remarks.

Shall the saline be leased entire or divided? If divided, into how many parts?

In few instances have the lessees manufactured salt themselves, but they generally sub-leased the saline in fractions to individuals having no unity of interest, who found no obstacles to a fair and friendly partition of the water. It is fairly inferable that the lessees made such terms with the manufacturers as secured to themselves some profit upon their contract with the United States. If this be the fact, it necessarily results, that the Government lets the saline to the lessees on terms more advantageous to them than could be obtained of the manufacturer, who is the only meritorious person, if it were leased in fractions. It is as obvious, that whatever profit is pocketed by the lessee, in so much is the price of salt enhanced; because no man can doubt that the manufacturer would contract with the Government on the same terms that he does with the lessee, perhaps better, as he would have more confidence. Men of competent capital to work the whole establishment are generally devoid of the required information, which can only be acquired by a long apprenticeship in the school of experience. That information is most frequently found in men of moderate capital. As those are in fact the manufacturers of the salt on their own funds, it is justice to allow and secure to them all profits derivable therefrom.

If the lessee can subdivide the saline, and create rival interests there, and preserve harmony among his tenants, I see nothing to prevent the United States adopting with success the same plan. I believe the fact to be, that if any collisions appeared at the saline, they arose between the lessee and his tenants, and not between the tenants themselves.

The Old Spring and Half Moon are distant from each other upwards of four miles: they are easily divided. The Half Moon is now, and has for many years, been partitioned out among different persons, without the least jostling, which clearly proves the practicability of the measure. I suppose it might be divided into any number not exceeding five parts. A multiplication beyond

that number would tend to diminish the quantity of salt, in consequence of the increased waste and deterioration of the salt water. The removal of the water from the wells to the wood is always attended with a certain and not inconsiderable loss of water, which loss is not much varied by the quantity conveyed: e. g. the loss on a hundred thousand gallons will not much exceed that on fifty thousand, while the expense is almost the same on both quantities.

As to the deterioration of the water. It is believed by the best informed, that all the wells in the Half Moon derive their supplies from the same fountain or stratum of salt water, and that that fountain or stratum is not inexhaustible, and as the site is liable to annual inundations (at least,) it must be clear that the more apertures that are made into it by digging wells, the more fresh water will find its way to mingle with the salt water, and thereby augment the expense of restoring the salt water to its wonted state of impregnation.

Would it not be expedient for the United States to settle with the present lessee, and pay for all such stock and improvements as he is, by the terms of the lease, entitled to pay for? The moment is propitious, as it is clear the lessee will be in arrear. Upon making a new lease, the tenant shall take the lick, or his part of it, with its appurtenances, and also the kettles, &c. under such stipulations for restitution as the nature of the business shall indicate. The new tenant would then have it in his power to employ all his funds in providing the "ways and means" for a successful prosecution of business. It is also worthy of remark, that the amount to be advanced by new tenants is always wrapt in obscurity, and the old tenant, either from a desire to deter persons from bidding, or from a disposition of human nature to over-rate our own, does not fail to make the impression that the improvements, and stock on hand to be paid for, will amount to a fearful sum.

As to the price of salt. It is impossible to speak on this subject with confidence, unless I could look forward, and with certainty see what regulations will be adopted relative to the currency of the United States, and of the States respectively. It is very clear to my mind, that if no change be effected, the evil will reach us in the west, and produce an enhanced price of labor and provisions, and consequently of salt. But as the Government will have the power of affording appropriate relief, I do not hesitate to recommend that 125 cents be assumed as the maximum price of the saline. It seems to me that the United States have committed a capital error in stipulating not to sell the rent salt at less than the maximum. If it were desired to raise the price of salt, no better plan could have been adopted, because it withdrew from the market all the rent salt, thereby enhancing the price of that necessary article. This stipulation was the offspring of fears suggested by the lessees, that the rent salt would be carried into the market in competition with theirs. What has been the consequence? The consequence has been, that the United States' salt was wasted on hand, while the lessees were, under cover of it, extorting from

the people a higher price than would have been asked or paid, if all the salt made had been in the market. Let the Government bind itself to sell none for less than one dollar at the lick, and at no other place for less than that, adding thereto costs of transportation and loss; but with some reservations: for example, reserve the Mississippi and the country near it in the Illinois Territory, and also the Illinois side of the Wabash. I recommend this reservation, because the saline belongs to the Illinois Territory, and also because it would avoid competition with the lessees, who have hitherto sent no salt up the Mississippi, (at least very little.) Some of the United States' salt has been sold at Kaskaskia, but upon hard terms. At the time that the lessees were selling salt at one dollar, we were obliged to pay at Kaskaskia one and a quarter, adding thereto carriage and loss. If this plan be adopted, the rent salt will be of some use. Therefore, let the Government reserve the right to sell as it pleases its rent salt in those sections of country, without reference to the wishes or interest of the lessees.

As to the duration of the lease. On this subject I have no doubt. The best lessons of experience admonish me that short leases are very unfriendly to the salt-making business. Much time is elapsed before the works are put into operation, and at the conclusion they are declining, so that it may safely be computed, that, in a lease of three years, from six to nine months are either lost or unprofitably spent. I am persuaded that the public good would be consulted by adopting the longest term.

I cannot refrain from suggesting the policy of allowing each lessee to cultivate ground enough to supply him with hay, and perhaps corn. The former article is so difficult to be procured, that none is used, though much wanted.

As to the rent. It should be let to the highest bidder, payable in salt, monthly, (not quarterly, too much would then be on hand at once, and much loss insured;) retaining a right to distrain and oust for a violation of the stipulations of the lease, allowing reasonable time to get his works in operation. This ought to be confided to the discretion of the agent who leases or superintends the saline, who, from a knowledge of the situation of the establishment, and its state of repair, can form an estimate of the time to be allowed.

The stand for a tavern, store, and blacksmith's shop, must also be rented by the United States. They are very useful, I may say essential. Would it not be well to allow the tavern-keeper to make a meadow?

Upon the whole, I do most humbly submit, that the clear profits of the saline ought to be expended in improvements in the Territory to which it belongs, say in roads. The General Government will be well remunerated in the appreciation of its public lands through which the roads shall pass. Every road would throw into demand all the lands on or near its borders.

I have, &c.

NAT. POPE.

JOSIAH MEIGS, Esq.

### LAND CLAIMS IN TENNESSEE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES JANUARY 28, 1817.

Mr. GASTON made the following report:

The committee to whom was referred the memorial of the Legislature of North Carolina, remonstrating against the act of Congress passed in the year 1806, entitled "An act to authorize the State of Tennessee to issue grants and perfect titles to certain lands therein described, and to settle the claims to the vacant and unappropriated lands within the same," have taken the subject of the said memorial into their serious consideration, and submit their views thereof in the following report:

The General Assembly of the State of North Carolina, by an act passed at their session begun and held on the second of November, 1789, empowered and required

its Senators in Congress to execute a deed on the part and in behalf of the said State, conveying to the United States of America all the right and title which the said State had to the sovereignty and property of a vast tract of western lands, out of which has been since formed the State of Tennessee, but which were then comprehended within the acknowledged limits of North Carolina. In this act the General Assembly declared that the conveyance aforesaid was to take place upon, and subject to, certain conditions therein expressed. Among these conditions were the following: the land, laid off, or directed to be laid off, by former laws of North Carolina, for the benefit of the officers and soldiers of the continental line of that State, should enure to their benefit; and if a defi-



Public Lands document 266

1818 January 7

US House Committee, Robertson reporting

Application to sell school lands

The committee feel no disposition to divert the lands reserved for the use of public schools in the Missouri Territory, or any where else, from the purposes for which they were originally intended. They are of the opinion that many schools are to be preferred to one academy, and that it is better that the citizens of the United States should all have it in their power to read and write, than that a favored few should be accommodated with globes, and charts, and maps, and philosophical apparatus as seems to be contemplated by the memorialists. It is obvious that this donation of each sixteenth section in every township can only be considered as of value and utility in connection with the density of the settlements."

territory, as it was then called, to the 30th September, 1810, 3,167,899 acres of land were sold: this amount, compared with the population in 1810, is in the ratio of something less than 13 acres for each individual. The free white inhabitants of Virginia, in 1800, amounted to 518,674; the lands of the State, valued in 1798, amounted to 40,458,644 acres: this, divided among the inhabitants, gives to each individual, upwards of 76 acres of land, but it will not be contended that the lands of Virginia are held by speculators; and with much less truth can it be so said of the lands northwest of the Ohio. Again, to show by inference that the public lands are not disposed of at too low a price, the committee have thought proper to inquire into the estimated value of the lands in several of the States, and they find that, in the year 1798, the lands of New Hampshire, amounting to 3,749,061 acres, were valued at \$19,028,108, or \$5 07 per acre.

In Pennsylvania, 11,959,865 acres were valued at \$72,824,852, or \$6 09 per acre.

In Maryland, 5,414,273 acres were valued at \$21,634,004, or \$3 77 per acre.

In Virginia, 40,458,644 acres were valued at \$59,976,860, or \$1 48 cents per acre; and, finally, in the 16 States at that time composing the United States, the land amounted to 163,746,686 acres, valued at \$479,293,263, or \$2 92 per acre. Now, if the lands of the United States, settled and peopled as they were,

have been thus valued, it may safely be concluded that the uninhabited wilds of our forests are not disposed of at too low a price.

Indeed, the committee feel somewhat apprehensive that the United States, so far from being enabled to increase, will find themselves compelled to lessen the price of the public lands, or to forego the golden dreams they indulge in, of enormous revenue to arise from their sale. It will be recollected by the House, that heretofore the public has been the monopolist of land; that, notwithstanding this advantage, not more than eight or nine millions of acres have been disposed of for a sum less than 19,000,000 of dollars, and that too during a space of 18 or 20 years.

They will now take into consideration the fact, that five or six millions of acres have been given as bounty to the soldiers of the late war, and now are, or soon will be, in the market, to meet the demand which the United States alone could heretofore supply. The committee will not obtrude upon the House the deductions or reflections which grow out of this state of things; they content themselves with the justification it affords of the resolution which they respectfully submit.

*Resolved*, That it is inexpedient, at the present time, to increase the price at which the public lands are required to be sold.

15th CONGRESS.

No. 265.

1st Session.

## APPLICATION FOR AN EXTENSION OF CREDIT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES JANUARY 5, 1818.

Mr. ROBERTSON made the following report:

The Committee on the Public Lands, to whom was referred the petition of Edmund Dana, in behalf of himself and others, have had the same under consideration, and submit to the House the following report:

The petitioners, amounting to some hundreds, after stating a variety of facts which, for the most part, apply to all the citizens of the Atlantic States, conclude with a prayer that they may be authorized to purchase two hundred and seven thousand five hundred acres of land, for which the first payment shall not be exacted prior to the month of February, 1819. They further ask to be permitted to purchase ninety-five thousand three hundred acres, on which the first payment shall not be exacted prior to the 1st December, 1820. The committee, however well disposed towards the petitioners, cannot recommend to the House a compliance with their request: it involves the expediency of altering the whole system regulating the disposal of the public lands so far as it regards the credit now allowed. Should the present applicants succeed in their demand, similar favors would be asked

from all parts of the country, and the necessity for an entire change of the laws, as they now stand, would be at once apparent and irresistible. A citizen of industry and economy can encounter no difficulties in obtaining the lands of the public. Every facility has been extended to them; the poor man, if he be not enabled to pay in advance, after the first payment has a credit allowed him of two, three, and four years for the residue of the sum; if he be not enabled to purchase a section, for his convenience, certain quarter sections have been subdivided into eighths of sections, or tracts of eighty acres each. Surely, then, when we take into consideration the smallness of the quantity which may be bought, and the long credit which is given, there can be no cause of complaint, and no sufficient reason assigned either for a general change in the system, or a particular exception to it in favor of the petitioner.

The committee respectfully submit the following resolution:

*Resolved*, That the prayer of the petitioner ought not to be granted, and that the petitioner, Edmund Dana, have leave to withdraw the petition.

15th CONGRESS.

No. 266.

1st Session.

## APPLICATION TO SELL SCHOOL LANDS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES JANUARY 7, 1818.

Mr. ROBERTSON, from the Committee on the Public Lands, to whom was referred the memorial of sundry inhabitants of Missouri Territory, reported:

That this is an application on the part of the memorialists to be permitted to sell a moiety of the sections of land within certain limits, which have been reserved for the use of public schools, and to vest the money arising from such sale in trustees, for the use of an academy to be hereafter established at Marthasville, in the county of St. Charles.

The committee feel no disposition to divert the lands reserved for the use of public schools in the Missouri Territory, or any where else, from the purposes for which they were originally intended. They are of

opinion that many schools are to be preferred to *one academy*, and that it is better that the citizens of the United States should all have it in their power to read and write, than that a favored few should be accommodated with globes, and charts, and maps, and philosophical apparatus, as seems to be contemplated by the memorialists. It is deemed unnecessary to urge other objections growing out of the sparse population of that part of the world: it is obvious that this donation of each sixteenth section in every township can only be considered as of value and utility in connection with the density of the settlements.

The committee submit the following resolution:

*Resolved*, That the prayer of the memorialists ought not to be granted.

15th CONGRESS.

No. 267.

1st SESSION.

## APPLICATION TO SELL SCHOOL LANDS.

COMMUNICATED TO THE SENATE JANUARY 12, 1818.

Mr. MORROW, from the Committee on the Public Lands, to whom was referred the petition of the Trustees for the Vincennes University, reported:

That, by an act of Congress passed on the 26th of March, 1804, "for the disposal of the public lands in the Indiana Territory," an entire township of six miles square was reserved in the district of Vincennes "for the use of a seminary of learning;" and that, by an act of the Legislature of the Indiana Territory, passed on the 29th of November, 1806, for establishing a University at Vincennes, the trustees appointed for the seminary were authorized to sell four thousand acres of the said township for the purpose of putting the institution into immediate operation. The proceeds of this sale were applied to the erection of a building suitable for a public school. The trustees were also authorized to rent out or lease the remaining part of the township for the use of the said university. It appears, however, that, from causes incidental to a new country, where the price of land is low, and the quantity for settlement disproportioned to the population, that the trustees have not been able to make any advantageous disposition of the lands by granting leases, nor to derive effective resource from rents for the support of the seminary, and that the unfavorable prospect of their unproductiveness for years to come, when disposed of in that way, has induced the trustees for the present to abandon the measure.

But in order to derive from these lands an active fund for rendering the institution respectable, and immediately advantageous to the country, the trustees have, by their petition, recommended to Congress the propriety of authorizing the sale of the lands, and vesting the proceeds of the sale in the stock of such bank or banks as may be designated for the purpose, and of vesting the dividends arising in the trustees, for the use of the Vincennes University.

The committee cannot doubt that the sale of the lands and investment of the proceeds in the manner proposed, would produce immediate aid, and, for several years to come, a more effective fund for the support of the institution, than what can be derived from the lands when let on rent or by lease; nor would they express an opinion that it would be improper when these lands shall have

acquired their real value, from the increase of population and advanced improvement on the adjacent county, to dispose of them in the manner proposed by the trustees.

Indeed, several considerations would appear to recommend the eventual adoption of such a measure. A moneyed capital, as it is the most manageable fund, must have a preference for the endowment of a seminary over that of rents drawn from land, which is too precarious in its nature to be depended on for the purpose.

It is also a consideration of some importance, in a political point of view, whether the reservation of title in Government to such considerable tracts of lands, to be let on rent by the agents of a corporation, and to be settled and cultivated by tenants in some measure dependant on those agents, would, in practice, operate to the advantage of civil liberty. To assure the agricultural class of the community the independent and free exercise of the privileges of citizens, it is necessary they should hold, in absolute right, the soil which they cultivate. But, on a view of the whole case, it would appear to the committee that, to authorize a sale of the lands at present, before they have acquired their proper value, would be to sacrifice to present advantage the future prospects of the institution. It is worthy of inquiry whether the object in view would justify the sacrifice, or indeed whether it be at all attainable at present. The object is to render the institution immediately "respectable and advantageous." Did this depend alone on the appropriation of funds, it might in some measure be realized; but it is conceived that all establishments of the kind, formed for the higher branches of literature, must depend for their advances and maturity on the progress of society, the state of common schools for preparatory education, and the population, wealth, and state of improvement in the country in which they are situated. And it is not probable that in a country so recently settled, the means would be afforded to keep in respectable standing an institution such as is contemplated, even after, by an anticipation of its fund, it had been forced into a premature existence. The following resolution is respectfully submitted:

*Resolved*, That the petitioners have leave to withdraw their petition.

15th CONGRESS.

No. 268.

1st SESSION.

## APPLICATION FOR AN EXTENSION OF CREDIT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES JANUARY 13, 1818.

Mr. ROBERTSON made the following report:

The Committee on the Public Lands, to whom was referred the petition of sundry emigrants from Switzerland, have had the same under consideration, and report:

That the petitioners ask permission of the Government to become the purchasers of twelve townships of land, at the price of two dollars per acre, payable in fourteen years after the grant. The committee are entirely disposed to consider the Swiss emigrants, and all others, when they become citizens, as entitled to all the rights

of the native born citizens of the United States; but they can go no further: they cannot view them as authorized to expect peculiar favors and indulgences. The committee, within a few days past, recommended the rejection of a similar application signed by many hundreds of the inhabitants of several of the States of the Union: they cannot, in justice, recommend a different course on the present occasion. They therefore respectfully submit the following resolution:

*Resolved*, That the prayer of the petitioners ought not to be granted.



Public Lands document #268

Application for an extension of credit

1818 January 3. (15th Congress, 1st session).

US HR Committee (Robertson reporting)

(A group of emigrants from Switzerland wanted to buy 12 townships at \$2/acre, payment due 14 years after purchase.)

The committee are entirely disposed to consider the Swiss emigrants, and all others, when they become citizens, as entitled to all the rights of the native born citizens of the United States, but they can go no further ... The committee, within a few days past, recommended the rejection of a similar application signed by many hundreds of the inhabitants of several of the States; they cannot, in justice recommend a different course on the present occasion."

15th Congress.

No. 277.

1st Session.

## LAND CLAIMS IN ILLINOIS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES FEBRUARY 24, 1818.

Mr. ROBERTSON made the following report:

The Committee on the Public Lands, to whom was referred the petition of sundry inhabitants of the Illinois Territory, praying for the confirmation of certain lands heretofore confirmed by the Governors of the Northwestern and Indiana Territories, report:

That, by the resolutions of Congress of 1789, and act of 1791, claims to land at Vincennes, and in the Illinois country, founded on ancient grants made by the French or British Governments, were recognized, and donations were made to heads of families in 1783, of four hundred acres, to those who had improved lands, not more than four hundred acres, and to those who did militia duty in August, 1790, one hundred acres.

The governor of the Northwestern Territory was empowered to allot and confirm to the inhabitants the lands they might be entitled to under the provisions of said resolutions and act of Congress. The governor of the Northwestern Territory proceeded to perform that duty, and continued, from time to time, to make grants and confirmations, until the power was transferred to the governor of the Indiana Territory, who also made grants and confirmations, until the power was transferred to Boards of Commissioners established about the year 1804. On the 20th of February, 1812, Congress organized a Board of Commissioners to revise the grants and confirmations of the governors. This board, in January, 1813, transmitted to the Secretary of the Treasury four lists of claims that had not been supported by sufficient evidence laid before them. Upon the claims thus reported, no proceedings have been had in Congress.

As no control was reserved by Congress over the acts of the governors, (no report ever being required to be made of their proceedings,) the petitioners insist that it was not competent to Congress to revise their decisions either directly or indirectly. The committee are not disposed either to deny or acquiesce in this position, because other grounds appear to the committee conclusive in favor of the petitioners.

By reference to the resolutions of 1788, and the law of 1791, it appears that the right to "donations to heads of families," accrued twenty-nine years before the passage of the law of 1812; the same remark applies to the *improvement* rights, and the claims derived from militia services accrued twenty-two years before the sitting of

the Board of Commissioners under the act of 1812. The petitioners complain, and with great appearance of truth, that, as their claims depended entirely on parol testimony, it was unreasonable to call on them at so distant a period, after the death or removal of their witnesses, to prove again their claims. The petitioners also complain, with equal appearance of truth, that, admitting the power of Congress to revise the acts of the governors, their confirmations ought to have been taken as evidence of right, until the presumption, in favor of the acts of a public officer, was destroyed by clear testimony. It seems, indeed, that the Board of Commissioners, under the law of 1812, did not allow to the acts of the governors any respect at all, but when the witnesses, called by that board, had no knowledge of the claim, it was condemned. The committee cannot hesitate to admit that many changes of property took place between the confirmations made by the governors, and their reversal, in 1813, by the board of revision; and that these revisions have operated prejudicially to innocent purchasers. The committee have not been convinced that any such hardship exists in that class of cases that depended on ancient grants: they depended on written testimony, and it does not appear that such documents have been lost.

The committee therefore recommend the rejection of so much of the petition as relates to the class of cases dependant upon grants of the governors, founded on "ancient grants;" and report a bill for the confirmation of the three other classes of cases dependant on parol testimony.

*Charles Ladeaux, militia claim of 100 acres.*

Witnesses.—Jacque Ducharme and Francois Voilette.

Proof.—That Charles Ladeaux was duly enrolled in Captain Mailett's company at Peoria, on or before the first of August, 1790, and continued to serve as a good militia man, in the village of Peoria aforesaid.

The above claim (although not entered in time) we recommend to the consideration of the Government as entitled to the same attention with those forwarded with our letter of November last.

MICH'L JONES, *Register.*  
S. BOND, *Receiver.*

REGISTER'S OFFICE,  
*Kaskaskia, 5th January, 1816.*

15th Congress.

No. 278.

1st Session.

## LAND CLAIMS IN MICHIGAN.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES FEBRUARY 25, 1818.

Mr. ROBERTSON, from the Committee on the Public Lands, to whom was referred the petition of the inhabitants of the village of Prairie du Chien, reported:

That, in the year 1755, the Government of France established a military post near the mouth of the Ouisconsin; that many French families settled themselves in the neighborhood, and established the village of Prairie du Chien; that, by the treaty of Versailles, in the year 1763, the village and the fort, following the condition of the Canadas and the Illinois country, passed to the Crown of England; that, in the year 1783, the events of the American revolution again changed their condition, and,

on the 1st of June, 1796, the village and the fort were formally surrendered by the British to the United States. That many of the petitioners continued their residence, and enjoyed uninterrupted tranquility till the capture of the fort by the enemy during the last war. The inhabitants, protected in their possession, appear to have neglected, under the successive Governments of France, England, and the United States, to secure to themselves the fields which they cultivated, by formal titles.

The petitioners now pray that a commissioner may be appointed to examine their claims, and confirm or report them to Congress for future consideration; and to this effect the committee respectfully submit a bill.

Public Lands Document # 312.

Application for the purchase of land on terms different from those established by law.

1820 March 3 (16th Congress, 1st Session)

US HR Committee (Anderson reporting)

‘The establishment of a community of foreigners within our country, secluded by their habits, manners, and language, from an intimate association with the great body of our citizens, cannot be an event so desirable as to justify a departure from the general law. An unrestrained intercourse with the body of the American yeomanry affords to the emigrant the best, and probably the only means of acquiring an accurate knowledge of our laws and institutions, a knowledge which is not only necessary to give him the full enjoyment of his situation, but is necessary to render him a valuable citizen to the commonwealth.

‘It is believed that if a large settlement was formed, exclusively of foreign families, to most of whom our language would, of course, be unknown, that many years would elapse before that general intercourse would take place beyond the boundaries of their own community, which would be essential to give them full possession of American principles and character; and it is by no means certain that time would, in such cases, ever have the effect of entirely destroying their foreign character.’



16th CONGRESS.

No. 312.

1st Session.

## APPLICATION FOR THE PURCHASE OF LAND ON TERMS DIFFERENT FROM THOSE ESTABLISHED BY LAW.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES MARCH 3, 1820.

Mr. ANDERSON made the following report:

The Committee on the Public Lands, to whom was referred the petition of Charles Henry Du Pasquier and others, praying, on behalf of themselves and other Swiss emigrants, that Congress would authorize them to purchase a tract of the public land lying on the west side of the Mississippi, and between the 30th and 37th degree of north latitude, sufficient for the settlement of three or four thousand families, on terms more favorable than the general law would permit them, have had the same under consideration, and report:

That the question presented to the consideration of the House involves the expediency of selling the public lands to foreigners on terms more indulgent than those which regulate the sales to native citizens. This committee is very sensible that the mildness of our Government, its wise and wholesome laws, have produced an emigration to its shores which has gone far to increase the collective talents and industry of the nation. Some of our most distinguished citizens, as well as industrious and ingenious mechanics, are among those who have made this country their own by adoption. But it is thought that, while we highly appreciate these benefits, we should not change the operation of the general laws of the country to produce the effect. So long as the freedom of our institutions is preserved, and wholesome laws are permitted to have their ordinary effect, the inducements which heretofore have had their influence will still be sufficiently strong to produce the desired emigration. It cannot be conceded that special provisions, excepting foreigners, however meritorious, from the operation of general laws, and giving to them advantages which are denied to the citizens, can be founded in good policy. It is a peculiarity eminently honorable to our country, that the native of Europe possesses, in the acquisition of the soil here, the same advantages which an American citizen does; to give him more, would produce a distinction not only invidious, but most unjust. When the law is now equally open to both, it would, indeed, be a perverted use of charity to give to the stranger a facility which we deny to the citizen.

It is probable that during the present session of Congress, the mode of selling the public lands will be so far altered as to demand a cash payment of each purchaser. Every reason which could influence Congress to make that change, would forbid this committee from proposing to sell a large quantity on a credit still more distant than the present laws contemplate. If the public interests should be thought to require a system still more rigorous than the one which now prevails, and this too against the petitions of a great number of your citizens, and the memorials of the Legislatures of several of the southern and western States, it would, indeed, be an assumption of high responsibility on the part of this committee, to recommend, in obedience to the prayer of the present petitioners, that indulgence to them which the expected bill will deny to your own citizens.

The establishment of a community of foreigners within our country, secluded by their habits, manners, and language, from an intimate association with the great body of our citizens, cannot be an event so desirable as to justify a departure from the general law. An unrestrained intercourse with the body of the American yeomanry, affords to the emigrant the best, and probably the only means of acquiring an accurate knowledge of our laws and institutions; a knowledge which is not only necessary to give to him the full enjoyment of his situation, but is necessary to render him a valuable citizen to the commonwealth. It is believed that if a large settlement was formed, exclusively of foreign families, to most of whom our language would, of course, be unknown, that many years would elapse before that general intercourse would take place beyond the boundaries of their own community, which would be essential to give them full possession of American principles and character; and it is by no means certain that time would, in such cases, ever have the effect of entirely destroying their foreign character. While, then, this committee rejoices in every opportunity of communicating the blessings of their country to their European brethren, they believe that it can be safely done only when they enjoy them by indiscriminate association.

The petitioners have, many of them, been heretofore engaged in manufactures; and they rely for much of the support which they expect to receive, upon the stock manufacturing skill and industry which they promise to introduce. They have exhibited before the committee some beautiful and very satisfactory specimens of their ingenuity and skill, particularly in silk and cotton goods. Your committee felt the full force of this appeal, and very frankly state that, if any petition of a similar character can be acceptable to the House, this deserves to be so. Without referring to the known character of the Swiss peasantry, a settlement in the State of Indiana, of emigrants from Switzerland, gives strong evidence that a colony established under the auspices of the present petitioners would be characterized by industry and unoffending submission to the laws. They resist the application, however, on the grounds they have stated. The terms of sale held out by the present laws are of the most indulgent kind; and, if the public interests should ever justify a still farther relaxation, it is confidently believed that it should be in favor of American citizens.

In answer to that part of the petition which declares that one of the principal objects is "the domestic manufacture of cotton, wool, flax, and silk," this committee will only say, that it may well be considered how far it would comport with sound policy to give a premium for the introduction of manufactures at the moment when, by the almost unanimous declaration of our manufacturers, it is said that they cannot live without farther protection.

Your committee, therefore, recommend the following resolution:

*Resolved*, That the prayer of the petitioners ought not to be granted.

16th CONGRESS.

No. 313.

1st Session.

## AMOUNT OF THE TWO PER CENT. FUND IN OHIO, INDIANA, AND ILLINOIS.

COMMUNICATED TO THE SENATE MARCH 9, 1820.

TREASURY DEPARTMENT, 8th March, 1820.

Sir: In obedience to a resolution of the Senate of the 1st instant, I have the honor to submit the enclosed statement of the amount of the two per cent. fund arising from the sale of public lands in the States of Ohio, Indiana, and Illinois, to the 30th of September, 1819.

I remain, with respect, your most obedient servant,

WM. H. CRAWFORD.

Hon. JOHN GAILLARD, *President pro tem. of the Senate.*

AMERICAN STATE PAPERS.

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DOCUMENTS

OF THE

CONGRESS OF THE UNITED STATES,

IN RELATION TO

THE PUBLIC LANDS,

FROM THE

FIRST SESSION OF THE EIGHTEENTH TO THE SECOND SESSION OF THE NINETEENTH CONGRESS, INCLUSIVE:

COMMENCING DECEMBER 1, 1823, AND ENDING MARCH 3, 1827.

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SELECTED AND EDITED, UNDER THE AUTHORITY OF CONGRESS,

BY

ASBURY DICKINS, SECRETARY OF THE SENATE,

AND

JAMES C. ALLEN, CLERK OF THE HOUSE OF REPRESENTATIVES.

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~~VOLUME~~ IV

WASHINGTON:  
PUBLISHED BY GALES & SEATON.  
1859.

Public Lands document 484

1826 January 27

Proposition to work the copper mines on Lake Superior

(A group of persons from the states of New York and New Jersey wanted a 10 year lease to mine copper near the south shore of Lake Superior at the river Ontonagon.)

Capital and enterprise are requisite to develop the mineral riches of our country; and although such undertakings are almost proverbially ruinous to the projectors, yet your memorialists have associated with them persons of capital and practical skill who, with adequate encouragement, are willing to encounter the hazards it may involve."



Public Lands document 529

1826 December 8

Lead mines in Illinois and Missouri, and operations thereat

[John Quincy Adams' cover letter to reports from the Department of War. The number of persons mining in the area of the Fever River & Mississippi River in northern Illinois increased rapidly. 100 men (7-1-1825), 150 (12-31-1825), 194 (3-31-1826), 406 (6-30-1826), 453 (8-31-1826). There were no private mines in Illinois.]

As respects the reservations from sale, it is nothing more than common justice to place all the residents of the mine districts on an equality, either by reserving the whole of the mineral lands from sale or none of it. So long as a portion only of the mineral land is reserved, it holds out a powerful inducement to the adroit and crafty speculator to purchase the remainder, whilst those who are more scrupulous of taking the advantage of the want of information on the part of the government now participate in the great profits which they frequently see others obtain by unworthy means. (Thomas)"

19TH CONGRESS.]

No. 484.

[1ST SESSION.]

## PROPOSITION TO WORK THE COPPER MINES ON LAKE SUPERIOR.

COMMUNICATED TO THE SENATE JANUARY 27, 1826.

*To the honorable the Senate and House of Representatives in Congress assembled:*

The petition of the undersigned citizens of the State of New York and New Jersey respectfully represents: That your memorialists are desirous of undertaking to work the copper mines which are said to exist on the south shore of Lake Superior, within the jurisdictional limits of the United States. Your memorialists, or a part of them, made application to the late President Monroe, in April, 1822, for a privilege of the kind now asked for; and which, as they have understood, laid the foundation of an Executive message to the Senate on that subject in the month of December in the same year. From that period to the present no measures of a public nature have been taken respecting it; but, inasmuch as our country is dependent for copper on foreign supply, both for public and private use, it is believed to be a matter worthy of the attention of Congress. Of native ore, there is probably a sufficient quantity for our own wants within our own limits. Capital and enterprise are requisite to develop the mineral riches of our country; and although such undertakings are almost proverbially ruinous to the projectors, yet your memorialists have associated with them persons of capital and practical skill who, with adequate encouragement, are willing to encounter the hazards it may involve. Without entering into a detail of facts and considerations at the present time, your memorialists beg leave to express the prayer of their petition; which is, that in consideration of the great expenses and hazards of the experiment on their part, and of its important bearing as a leading effort, that a law may be passed authorizing the President of the United States to grant and confirm to them the right of ore on forty thousand acres of land to be selected and located on or near the south shore of Lake Superior, on the river Ontonagon, within ten years from the passage of the said act, for such rent reserved, either in money, or in copper sheets suitable for the use of the navy of the United States, as may be deemed just and reasonable, and subject to the condition that, if the petitioners, their heirs or assigns, shall not, within that time, have expended the sum \$20,000 in exploring or working mines and minerals thereon, then the said grant shall be void; and that the memorialists be empowered to make fresh contracts with the Indians claiming the territory thereof as may be requisite to secure the declared objects of their undertaking. And, as in duty bound, they will ever pray.

GEO. W. CARTWRIGHT,  
W. A. THOMSON,  
L. H. CLARKE,  
LEWIS M. WISS,  
CHAS. KINSEY,

*In behalf of themselves and their associates.*

NEW YORK, December 23, 1825.

19TH CONGRESS.]

No. 485.

[1ST SESSION.]

## BOUNTY LANDS UNFIT FOR CULTIVATION EXCHANGED.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES JANUARY 27, 1826.

Mr. SCOTT, from the Committee on Public Lands, to whom were referred the petitions of Robert Brigham, Kelly Halsey, Richard Yielding, Francis Dunross, John Watson, John Hill, Benana Stafford, and George Frederick, soldiers in the late war, and the resolution of the 19th December on the same subject, reported:

That each of the petitioners were enlisted soldiers during the late war, who, severally, "faithfully performed his duty while in service," and obtained an honorable discharge; that to each of them lands have been patented as bounty lands in the military tract in the Territory of Arkansas. The petitioners state, and furnish evidence of the fact, that they are poor, and have removed from a great distance to settle on and cultivate the lands thus by them drawn; that they are aged, infirm, and men of families, but that, on arriving in the Territory to take possession of and settle on their lands, they find, as they prove, that the same is totally "unfit for cultivation," and that they could not subsist were they to settle thereon. The petitioners now ask of Congress to allow them to surrender the lands thus patented to them, and that they be allowed to locate and enter another quarter or half section "fit for cultivation" in lieu thereof.

The committee have examined the several acts of Congress passed to encourage enlistments during the late war, and find that every inducement was held out to engage men to enlist under the banners of their country; double, nay, triple bounty, three months' extra pay, double bounty of lands, protection to the widows and children of the soldier, and an exemption of the lands by them drawn from all liability for debts or contracts entered into before the date of the patent, were among the inducements held out to those who should join the army. The soldier was incapacitated by law from disposing of the land himself anterior to the date of the patent. All the provisions of the several laws go clearly to show that it was the intention of Congress to secure to the soldier, or to his wife and children, if he should die or fall in battle, a home; and this opinion is greatly strengthened by looking at the act of May 6, 1821, setting

which they had labored for years to make, under the faith, as they believed, of the government by whom they are to be deprived of their homes, and doomed to poverty and ruin, without some little relief, some small remuneration for years employed in laborious industry.

It is therefore submitted to the general government whether some provision either in money or lands should not be made for the relief of those few of their distressed fellow-citizens who have made the improvements, as aforesaid, east of the Poto and Kiamiche, and west of the Choctaw eastern boundary line as established by the treaty of January 20, 1825. And your memorialists will, as in duty bound, ever pray.

ROBERT BEAN, *Speaker of the House of Representatives.*  
JACOB BARKMAN, *President of the Council.*

19TH CONGRESS.]

No. 529.

[2D SESSION.]

## LEAD MINES IN ILLINOIS AND MISSOURI, AND OPERATIONS THEREAT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES DECEMBER 8, 1823.

*To the House of Representatives of the United States:*

I transmit to the House of Representatives a report from the Secretary of War, with sundry documents containing the information requested by the resolution of the House of the 8th of May last, relating to the lead mines belonging to the United States in Illinois and Missouri.

JOHN QUINCY ADAMS.

WASHINGTON, December 8, 1826.

DEPARTMENT OF WAR, December 7, 1826.

The Secretary of War, to whom was referred the resolution of the 8th of May last, requesting "the President of the United States to cause to be obtained, and lay the same before Congress at the next session, a statement showing the number of persons engaged in working the lead mines belonging to the United States in Illinois and Missouri; the quantity of mineral raised at them; the quantity of land that has been ascertained by discovery to be mineral land; and, as nearly as may be, the quantity of lead made at those mines since the first day of July last; and also a statement showing the number of persons engaged in working such mines in said States as belong to private individuals or companies; and, as nearly as may be, the quantity of mineral raised and lead made at those mines since the period aforesaid," has the honor to submit herewith a report of the colonel of ordnance, made in compliance with the resolution.

I have the honor to be your obedient servant,

JAMES BARBOUR.

The President of the United States.

ORDNANCE DEPARTMENT, Washington, December 4, 1826.

Sir: In compliance with your instructions to collect and transmit the information required by a resolution of the House of Representatives of the 8th of May last, I have the honor to state that the requisite instructions were given to the superintendent of the lead mines to collect and forward the information required. And I have now the honor to submit his report, which contains all the information upon the subject which it has been in his power to collect.

It will be observed that the report of the superintendent is not limited to the matters mentioned in the resolution, but embraces others which, although not expressly required by the terms of the resolution, are considered material to the subject of it. It is considered proper, therefore, to present the report entire, as in this state it gives a fuller account of the present condition and future prospects of the public lead mines.

The superintendent renews a proposition, heretofore submitted, for opening a road from Potosi to the Mississippi river, and adds another for improving the navigation of the "Upper Mississippi." Both of these propositions are conceived to be of sufficient importance to merit the consideration of the proper authorities. It is believed that the expense of carrying them into effect would in a short time be reimbursed by the increased product of the lead mines. The improvement recommended in the navigation of the Mississippi, it is conceived, would be important to the public service in other respects than in promoting the interests of the lead mines, as it would, doubtless, greatly lessen the difficulties of communicating with the remote military posts situated on the headwaters of that river.

It is presumed that legislative sanction is necessary to measures like these now proposed. They are therefore respectfully submitted in connexion with the report which is made in answer to the resolution.

I have the honor to be, sir, your most obedient,

GEO. BOMFORD, *Brevet Colonel, on Ordnance service.*HON. JAMES BARBOUR, *Secretary of War.*



UNITED STATES LEAD MINE OFFICE, *St. Louis, Missouri, September 30, 1826.*

Sir: In compliance with your instructions, I proceed to report the number of persons engaged in working the lead mines, the property of the United States, in Illinois and Missouri; the quantity of mineral raised at them, and the lead made since July 1, 1825; the number of persons engaged in working *private* mines; the quantity of mineral raised at them, and the quantity of lead made since July 1, 1825, and the quantity of land that has been, by discovery, ascertained to be mineral land; which information is required by a resolution introduced into the House of Representatives by the Hon. D. P. Cook at the last session of Congress, a copy of which was received with your instructions.

It is necessary to premise that a portion of the information required by the resolution could only be obtained in an incomplete and somewhat unsatisfactory manner, owing to causes beyond my control, and which will be explained in this report. So far as was practicable, I have given facts; when compelled to resort to other sources, I have used due caution in adopting the estimates and information obtained.

*First.* The number of persons engaged in working the public lead mines.

I am enabled to give with accuracy the number of persons at the public mines in Illinois only, or rather at the mines near the north boundary of that State, and which are supposed to be within its limits, commonly known as the Fever River mines, viz: On July 1, 1825, there were at those mines about one hundred men; on December 31, 1825, one hundred and fifty-one men; on March 31, 1826, one hundred and ninety-four; on June 30, 1826, four hundred and six; and on August 31, 1826, (the date of the last report,) there were four hundred and fifty-three men. You will observe the increase has been gradual, and the number is still augmenting. In *Missouri*, the number of miners, teamsters, and laborers of every description, (including slaves,) at the public and *private* mines, may be *estimated* at about two thousand. They do not, however, work constantly at mining; many are farmers, &c., who, with their slaves, devote to mining such time only as they can spare from their other pursuits. I am of the opinion that not more than the quantum of labor to be derived from the steady application of one thousand men is applied to the mining and other incidental business connected with it in Missouri. The miners working for themselves generally labor when they please and as they think proper. The proprietors or lessees of the mines have no control over the miners other than that of requiring them to deliver the mineral they obtain; they are constantly changing from one mine to another, and it is impossible, under such a state of things, to ascertain the amount of labor bestowed. The *estimate* I have given is from observation, and information derived from experienced persons.

*Second.* The quantity of mineral raised and lead made at the public mines.

At the Fever River mines, (Illinois,) from July 1, 1825, to August 31, 1826, there were 2,416,356 pounds of mineral obtained, and 1,042,288 pounds of lead made, leaving on hand, at the latter date, mineral and *ashes* (fine mineral partly desulphurated) sufficient to make 1,380,000 pounds of lead, including about 1,200,000 pounds of mineral raised at the mines, but not taken to the furnaces. In Missouri, from July 1, 1825, to September 30, 1826, there were obtained from the public mines under lease 2,641,231 pounds of mineral, and 1,738,427 pounds of lead were made, leaving mineral and *ashes* on hand at the latter date sufficient to make 170,000 pounds of lead.

*Third.* The number of persons engaged in working the private lead mines in Illinois and Missouri.

As respects *Missouri*, I have already stated that the miners work indiscriminately at public and private mines. In Illinois there are no private mines wrought.

*Fourth.* The quantity of lead made at *private* mines.

I am compelled to *estimate* when answering this. Persons are naturally unwilling to disclose the amount of their business. From the best sources within my reach, I am of the opinion that about 8,000,000 of pounds of lead were made in Missouri from July 1, 1825, to September 30, 1826, from mines other than those leased from the United States. At least one-fourth of that amount was, however, made from mineral surreptitiously obtained from public mineral lands, principally in small quantities at a time, leaving about 6,000,000 of lead as the product of the mines owned or claimed by individuals in Missouri.

*Fifth.* The quantity of land which has been ascertained by discovery to be mineral land.

I am somewhat at a loss to answer this. If it is meant to inquire the number of acres from which lead ore, *in quantity*, has been obtained in Missouri, it may be estimated at 3,000 acres. This amount, it may be observed, is very small compared with the reservations from sale on account of mineral appearances; but as the land is surveyed and subdivided into tracts, the smallest of which is eighty acres, when one acre is found to be mineral land, it is necessary to reserve the whole tract, as the acre of mineral land may produce an immense quantity of mineral in a very short time. The Mine Shibboleth has, since its discovery in 1811, produced at least \$500,000 worth of lead. This mine covers less than thirty acres. One public mine leased in November, 1824, has, from that period until September 30, 1826, produced 680,000 pounds of lead, exclusive of about 180,000 pounds taken from it previous to the lease. This mine does not cover more than ten acres. Another lease of a mineral tract, of less than eighty acres, has produced about 600,000 pounds of lead principally from one vein covering but a small superficial extent. But if the information required by the resolution is the amount of land which, from geological and mineralogical features, is considered mineral land—land possessing such indices as to leave no reasonable doubt of its containing lead mineral under the surface—the amount may be stated at present at 400,000 acres. This amount includes all which has been reserved from sale by law, as well as all the land *claimed* and held under French and Spanish grants, pre-emption and settlement rights, and all other *incomplete* titles which happened to be within the bounds of the reservations.

I have thus replied to the resolution in the best manner I have had it in my power to do, and I will take the liberty to subjoin such other remarks as may probably be illustrative or interesting.

From July 1, 1825, to September 30, 1826, there has accrued as rent of the public mines 278,071 pounds of lead, and there is mineral now on hand sufficient to yield 155,000 pounds more—making a total of 433,071 pounds, which, at the present price, would amount to \$21,653 55. After deducting the expenses of collection, transportation, &c., &c., (about \$3,000,) the clear revenue would be \$17,653 55 for a little more than one year, and this has accrued under unfavorable circumstances; for, in Missouri, owing to a very wet season, mining has been prosecuted with but little success, and, as before stated, much has been lost to the United States from unauthorized mining. At Fever river the operations were not fairly commenced until June. Previous to that time but two furnaces were in operation; subsequently *five* have been in constant activity. Although the amount of rent above stated is of little comparative importance to the government, yet it is satisfactory to know that the business is in a flourishing con-

dition, and bids fair to increase annually. The number of miners at Fever river is increasing rapidly. Such are the inducements to individual enterprise and industry at those mines, that numbers of the most respectable inhabitants of the "Upper Mississippi" are resorting to them as a source of reward for labor not attainable elsewhere. The market those mines afford for the agricultural productions of the upper settlements is already considerable, and is increasing, as the price of labor at the mines precludes competition with the settlements below, where it is cheap and the cost of transportation trifling. Believing, as I do, that the main object of the government is "a full development of the mineral resources of the country previous to a sale of the lands to individuals," I again take the liberty to recommend to favorable notice the plan of making a road from Potosi (the centre of the principal mines at present wrought in Missouri) to the Mississippi river, which I had the honor to suggest in my report last winter. I am induced to repeat the recommendation from a thorough conviction of the beneficial tendency of the road as respects the value of the public mineral lands, particularly should they be brought into market. I would, for the same reason, also, respectfully urge the consideration of what I conceive to be a still more important measure. I allude to clearing out a boat-channel through the rapids in the "Upper Mississippi"—the first near the mouth of the river Des Moines, the other just above Fort Armstrong or Rock Island. From information which may be relied on, I believe a boat-channel affording three and a half feet water at the lowest stages of the river may be cleared out for a sum not exceeding \$30,000. This sum will be about the amount of two years' rent of the Fever River mines even should no material increase take place in their product. The object is one of great importance in many points of view, independent of facilitating the intercourse with and consequent development of the lead mines. The impediments consist principally in loose rocks in the bed of the river. In a communication from one of the most intelligent residents at the upper mines on this subject, he states that he has been detained, in low water, ten days at each of the rapids above referred to, by obstacles which he is of opinion, from particular observation, could be removed for \$20,000. These rapids are the only serious impediments in the navigation of the "Upper Mississippi" as far up as the Falls of St. Anthony, more than eight hundred miles above St. Louis. Steamboats ascend that distance in the *spring* of the year under present circumstances; but were the improvements suggested to be made in the rapids, it is believed the intercourse would be continued for six months in the year.

The extent of the mineral region of the "Upper Mississippi" is immense. That portion of it now wrought for lead ore is trifling compared with the whole, and yet it has yielded \$6,000 dollars' worth of lead during the present year. From Apple river (and from below it in fact) to the Wisconsin, a distance of more than one hundred miles, the same geological features present themselves, and there is nothing but labor required to develop the immense value of the country. On the 1st of June last, from the returns of mineral obtained at the Fever River mines during the preceding year, the *average* amount to each miner was found to be four hundred and fifty-seven dollars for his year's labor. Subsequent returns are equally large. This state of facts leave but little doubt that additional labor will soon be applied when it will be so well rewarded.

With respect to the trespasses on the mineral and timber of the public lands in the mine district of Missouri, I am still of the opinion that the plan of leasing larger quantities than three hundred and twenty acres to one person or company, which I proposed to the department last winter, will have a beneficial tendency. It is the interest of the lessee to prevent all unauthorized proceedings on the land he has leased, be the amount great or small. There are frequently ten or fifteen places in a township where lead ore in small quantities is obtained, neither of which are sufficient to induce a person to lease it, as, under the present regulations, he can have but one lease of three hundred and twenty acres, (to be taken in one place,) even if his ability to work the mines found on five times that quantity be known; consequently all are desirous of leasing the productive mines only, whilst those of less importance are neglected. These places become the resort of trespassers, and although the amount of mineral obtained by them at any one of such places may be small, the aggregate is very large. Not only so, but the pretence of having obtained the mineral from public land *not* leased is held forth, when, in fact, it is frequently obtained from that which is leased, and also from private property, to the serious injury of the owners. Unfortunately there are persons engaged in smelting lead ore who are so regardless of all moral restraint or law as to make it a practice to purchase ore at an advanced price, (equivalent to the rent required by the United States,) no matter how obtained. This is a serious evil to the whole of the owners of mines, public and private, and I know of no better plan to suppress it than to put all the land at present wrought for ore under lease. When the quantity obtained from five or six of the smaller mines is no greater than that obtained from one of the most productive, I would lease the whole of the former to one person, and thereby place the lessees more upon an equality. The only objection to this plan which suggests itself to me is monopoly, and that is already guarded against by upwards of sixty leases which are now granted, and which are so located as to destroy the connexion of any very large tracts that it would be requisite they should have.

As respects the reservations from sale, it is nothing more than common justice to place all the residents of the mine districts on an equality, either by reserving the whole of the mineral lands from sale or none of it. So long as a *portion only* of the mineral land is reserved, it holds out a powerful inducement to the adroit and crafty speculator to purchase the remainder, whilst those who are more scrupulous of taking the advantage of the want of information on the part of the government now participate in the great profits which they frequently see others obtain by unworthy means. I have therefore not hesitated to make reservations of mineral land so far as my information would justify. The land is generally poor, rocky, broken, and difficult of access, and it is undeniable that, were it not for the lead mines, those small tracts of good land which are interspersed throughout the mine districts would not sell for scarcely anything. It is very probable that some small tracts, apparently fit for cultivation only, may be reserved as containing lead mines; but such places will be required for the smelting establishments on the adjoining lead mines whether they be leased or sold; and, as the measures now taking are of a general and not of a partial character, it is presumed that the sale of a few small and detached tracts of cultivated land, in so large a district as that of the mines, can be of but little moment whether it takes place now or a few years hence. Should a contrary opinion, however, prevail, I can re-examine the country and release from the reservation the tracts alluded to should any such be found.

In my former report I adverted to the wasteful manner in which the lead ore was smelted. Should it meet your approbation, I would introduce, by way of experiment, the improved modern "reverberatory furnace;" and, as nothing is more difficult than to convince the generality of workmen that any improvement can be made in the process of a business they have grown gray in following, it will be requisite, in



order to have it introduced, to build the furnace and put it in operation at the public expense. It is the opinion of some of the most experienced smelters that a very material saving would be made by the adoption of this description of furnace in lieu of the one at present in use here. I am convinced of the fact myself, and that the cost of the experiment would soon be repaid by the increase of the product, and consequently of the rent of the mines, which is, it appears to me, one of the legitimate objects of the government in regard to its lead mines. I therefore trust that the proposition will meet with a favorable consideration. The improvements in the metallurgical department of the French "School of Mines" has amply repaid the expenses attending them. We have authentic information on this subject. In one instance, at the lead mines of "Pescy," the increase of lead from the ore was *forty-six per cent.*, and which was effected by an improvement upon a plan of smelting which had existed for ages. The mine district of Missouri affords a clay of superior quality for making fine brick, very suitable for the new furnace should it be adopted. Another advantage in this furnace is that it requires much less fuel than the old, which is a consideration of importance in this country where it is so scarce.

With respect to the profits arising to the owners of the private mines, which it would appear to be in part the object of the resolution to ascertain, it is considered that the only difference between the owners and lessees of mines is the amount of the rent required by the United States. Private mines are frequently leased upon the same terms as those of the public. They are worked in the same manner also.

I remain, sir, very respectfully, your most obedient,

M. THOMAS,

*Lieutenant United States Army, Superintending United States Lead Mines.*

Colonel GEORGE BOMFORD, *on Ordnance Service, Washington, D. C.*

19TH CONGRESS.]

No. 530.

[2D SESSION.]

APPLICATION OF THE CITIZENS OF MOBILE, ALABAMA, FOR THE ADJUSTMENT OF  
TITLES TO LAND IN THAT CITY.

COMMUNICATED TO THE SENATE DECEMBER 15, 1826.

*To the honorable the Senate and House of Representatives of the United States in Congress assembled:*

The memorial and petition of the undersigned inhabitants of the city of Mobile respectfully represent: That the titles and claims to land in this city, although they have often attracted the attention of Congress, and have been the subject of several laws, yet remain in an unsettled and embarrassing situation, injurious to the general prosperity of the place, the fruitful source of expensive lawsuits and contention among our citizens, and, at the same time, exposing the honest, industrious man to the wiles and machinations of the cunning, artful knave.

Thirteen years have nearly elapsed since Mobile has become a component part of the United States; and the inhabitants have ever anxiously looked to Congress for an adjustment of their claims, and, although two boards of commissioners have examined and reported upon them, and several laws have been enacted on the subject, they still find themselves in the same embarrassing, perplexing, and unhappy situation—not secure in the possession of the houses which sheltered them under a foreign government. We would paint no fiction; we feign not our insecurity. The practice of making simulated Spanish grants and papers existed before the American government, and we have reason to believe that machinations of this nature are not yet extinct. New grants, worn, smoked, and antedated—old in date, new in existence—threaten our oldest and dearest possessions; we feel, we know, the difficulties attending the adjustment of land claims in this city. The Spanish records were carried away, or retained here in such careless keeping as to afford ample opportunities for fraudulent practices; claims for mistaken quantity, either more or less, have, in some instances, been honestly exhibited and allowed; certificates have been wrongly issued, giving more or less land than ought to have been given; some have gone to the hands of wrong persons, and some have been lost or destroyed. The surveys are, of course, equally wrong and injurious. Such is the uncertain situation of land claims in this commercial depot of Alabama. In such a state of things, rogues will profit, honest men must suffer; but it is desirable to know the extent of suffering.

Many of us have witnessed, from year to year, the sale of claims rejected by the commissioners, warranty titles given, and valuable houses built thereon. More than fifty dwellings have been erected on such spurious titles. In many instances the sellers are dead, and nought remains but the remembrance of their deeds. The buyers have been deceived by artful men, aided by the long delay of the government to designate clearly their own. The value of lots has advanced from hundreds to thousands of dollars. Shall such purchasers be now turned out from their improvements and their dwellings? Their industry and the growth of the city have given the present value. Ten years ago the same ground was not worth fencing. The possessors of such property must now appeal to the justice and liberality of the government.

That the present situation of land claims in this city may be faithfully and impartially examined into, that errors may be corrected and frauds exposed, your petitioners solicit that commissioners distinguished for talent and integrity, strangers to our population, unprejudiced and impartial, may be appointed to revise and examine the respective claims, with such powers as Congress may, in their wisdom, deem proper to grant them. It is also important that the commissioners should look at the grounds claimed. Had this been done by the former commissioners, it might at once have excited suspicion, and led to an investigation and rejection of the claim, and thus prevented the grant of valuable ground for the prodigious improvement of a pig-stye upon it. Your petitioners further beg leave to remark, that they have learned that a bill in relation to these land claims was before the last Congress, which proposed to appoint the register and receiver of the land office at Jackson Court-house commissioners to examine these claims. The latter of those officers is well known to your petitioners. He long resided in this place, and left it



DOCUMENTS

OF THE

CONGRESS OF THE UNITED STATES,

IN RELATION TO

THE PUBLIC LANDS,

FROM THE

FIRST SESSION OF THE TWENTIETH TO THE SECOND SESSION OF THE TWENTIETH CONGRESS, INCLUSIVE:

COMMENCING DECEMBER 3, 1827, AND ENDING MARCH 3, 1829.

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SELECTED AND EDITED, UNDER THE AUTHORITY OF CONGRESS,

BY

ASBURY DICKINS, SECRETARY OF THE SENATE,

AND

JOHN W. FORNEY, CLERK OF THE HOUSE OF REPRESENTATIVES.

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VOLUME V.

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Public Lands document 605

1828 January 7

Operations of the public lead mines and their condition in 1827

US War Department

[The number of miners of lead deposits on the upper Mississippi River (Illinois, Missouri, and the ""Northwest Territory"" (Wisconsin) had increased from 100 in 1825 to 1,600 in 1827. In 1825, 1,278,528 pounds of mineral made 664,530 pounds of lead. In 1827 11,248,366 pounds of mineral made 5,182,180 pounds of lead.]

[Lieutenant Thomas, superintendent of the mines, recommended that the general government erect a new furnace of the European type to save fuel and produce a superior product. He also recommended clearing a boat channel in the rapids of the upper Mississippi for commercial and military purposes. Boating was currently vulnerable to Indian attack.]

"... there is no part of the public revenue, it is believed, more cheerfully paid or more easily collected; for individuals are amassing fortunes at the mines, and do not consider it a hardship to pay for the privilege. The government is also benefited by a more extensive sale of the public lands now in the market, as very many of the miners and laborers are farmers from the States of Illinois and Missouri who resort to the mines as a certain source (of) money, (for) the purchase of land; in addition to which the market for produce is very good at the mines, ... St. Louis also enjoys a profitable trade in merchandise ...As leasing of the public lead mines is considered never to have been the permanent policy of the government, and as the prevention of a monopoly of the mines by capitalists or others was a principal object when reserving them from sale, ... if those mines are now brought into market, and those on the Mississippi reserved for some years longer, they will naturally fall into the hands of many persons, and no monopoly can be effected."

Public Lands document 676

1828 April 8

Expenses and product of lead mines and land reserved for same in Missouri

US War Department

(Reports on lead mines in Missouri. Reports included northwest Illinois - Galena. Between 1821 when the mines were first leased and 1827 September 30, lessees had paid 998,783 pounds of lead in rent and the lead was deposited in arsenals for public use. 4,320 pounds had sold.)



perhaps deem it just to diminish the price of the lands, or to grant a delay for the payment of it. The difficulty experienced in selling the lands that have been brought into market shows, perhaps, sufficiently that the present prices are too high.

A large extent of country within the limits of our State is covered by inchoate Spanish titles. The grants to Bastrop and to Maison Rouge, all those issued within the jurisdiction of Nacogdoches for lands situated between the Rio Hondo and the Sabine, and all others in the same situation west of the Mississippi, ought to be finally adjusted, or at least placed in a situation in which their validity might be adjudicated upon by courts of justice.

In the other States where public lands have been sold, your honorable bodies have given to them the proceeds of one section in every township for the advancement of public education, besides other grants they have made to literary institutions. Public lands have been sold in Louisiana, and this State has not, so far, participated in that liberality.

Your honorable bodies must be convinced, by the information they have at various times received from their registers and surveyors, that the proceeds of the lands which remain unsurveyed in this State will never pay the expenses of the survey. The salable lands lie almost exclusively on the margins of water-courses. The high lands between those water-courses are, with a few exceptions, equally unfit for cultivation and for grazing. Using the base lines already run in every part of the State, and the partial surveys that have been made, your memorialists are of opinion that lines of demarcation might easily be drawn between the lands that are salable and those that are not. This might be done by the United States surveyors, under the inspection of commissioners appointed for that purpose by the general government; and those lines once ascertained, a proper sense of the justice of your honorable bodies induces your memorialists to believe that you would without hesitation relinquish in favor of the State of Louisiana so much of those lands as would be unfit for the use to which alone they had been placed in the hands of your predecessors.

Our increasing prosperity, the distance between our different settlements, caused by the uncultivated lands that separate them, and the difficulties experienced in the navigation of all our rivers except the Mississippi, require many works of internal improvement to be made. The State of Louisiana, not the last in war, will not be the last in peace to raise those monuments of public utility. But, to be enabled to do so, we must be the masters of the soil through which our roads and canals are to pass.

The premises considered, your memorialists would recommend that rights of pre-emption may be given to actual settlers.

That the present price of public lands may be reduced, or a delay given for the payment of it.

That the Spanish grants above referred to may finally be adjusted or referred to courts of justice.

That out of the public lands that have or may hereafter be sold within our limits the proceeds of one section for every township may be given to the State of Louisiana for the promotion of public education, and that grants similar to those made in other States may be made to literary institutions.

That commissioners may be appointed who, with the United States surveyors, shall be instructed to ascertain the lines of demarcation between the lands that are salable and those that are not, within our limits.

That when this is ascertained the lands adjudged to be unsalable may be given to the State of Louisiana on its paying to the United States the actual expenses incurred in ascertaining and running those lines.

That the remaining lands may be brought into market as soon as practicable, and, if not sold when offered, that they may be entered at the different land offices on payment of such reduced prices as will insure a speedy disposal of them.

All of which is respectfully submitted by your memorialists.

OCT. LA BRANCHE, *Speaker of the House of Representatives.*  
AD. BEAUVAIS, *President of the Senate.*

NEW ORLEANS, December 13, 1827.

GENTLEMEN: I have the honor to enclose you herewith a copy of a memorial to Congress from both branches of the legislature of this State.

I am, with great respect, your obedient servant,  
Honorable REPRESENTATIVES in Congress from Louisiana.

H. JOHNSON.

20TH CONGRESS.]

No. 605.

[1ST SESSION.]

OPERATIONS OF THE PUBLIC LEAD MINES AND THEIR CONDITION IN 1827.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES JANUARY 7, 1828.

DEPARTMENT OF WAR, January 4, 1828.

SIR: In obedience to a resolution of the House of Representatives of the 2d instant, I have the honor of presenting the enclosed report, which contains all the information received by this department on the subject of the lead mines which has not been heretofore communicated.

I have the honor to be your obedient servant,

JAMES BARBOUR.

HON. ANDREW STEVENSON, *Speaker of the House of Representatives.*

ORDNANCE DEPARTMENT, *Washington, January 4, 1828.*

SIR: In answer to the resolution of the House of Representatives of the 2d instant, which has been referred to this department, I have the honor to transmit to you herewith a copy of a report from the superintendent of the United States lead mines (Lieutenant M. Thomas) of the 30th of September last, containing all the information on the subject of the lead mines which has been received by this department and which has not been heretofore communicated.

I have the the honor to be, sir, your most obedient servant,

G. BOMFORD, *Brevet Colonel on Ordnance Service.*

HON. JAMES BARBOUR, *Secretary of War.*

St. Louis, *Missouri, September 30, 1827.*

Sir: At this period, which closes the official year, it may be proper to accompany the quarterly returns now due with some general remarks as to the present condition and future prospects of the public lead mines.

During the past year it will be observed from the returns that the products of the mines under lease in Missouri have not increased. This is accounted for by the superior richness and extent of the mines on the upper Mississippi, which has attracted many of the regular miners from Missouri, and prevents, in a great measure, any increase of their number from emigrations—all being alike drawn to the upper mines, where a more profitable return for the labor of the miner is to be found. Very few late discoveries have, therefore, been made in Missouri, and the upper leads or floats of ore having generally been dug out at the old mines, they have been required to sink deeper in order to obtain the mineral, and consequently more labor has been requisite to obtain the same quantity of lead than heretofore. In the course of these operations the existence of veins of ore in the strata of rock below the usual depth of mining in Missouri is fully proven in several instances, and there is now no doubt that this is the case generally. Another reason why the product of the public mines in Missouri has not increased is the difficulty of preventing unauthorized mining at the public mines, whether leased or not. They are so interspersed with private property as almost to render it impracticable to detect an offender under the present system of leasing small quantities.

The amount of rent obtained from the Missouri mines (91,038 pounds) is, however, considerably more than sufficient to defray the whole expense attending the superintendence and management of all the public lead mines, which leaves the large amount obtained on the upper Mississippi (518,218 pounds) clear revenue. The tabular statements will show a very great increase in the product of the mines on the upper Mississippi during the present year, and it is still progressing.

The average number of miners at the *upper* mines—

During the year 1825 was.....	100
During the year 1826 was.....	400
During the year 1827 was.....	1,600

The amount of mineral obtained—

In 1825 was.....	1,278,528 pounds.
In 1826 was.....	1,848,164 pounds.
In 1827 was.....	11,248,366 pounds.

The amount of lead made—

In 1825 was.....	664,530 pounds.
In 1826 was.....	958,842 pounds.
In 1827 was.....	5,182,180 pounds.

Leaving on hand at this date mineral and *ashes* (or fine mineral) sufficient to make 2,116,000 pounds of lead more.

The value of the lead made in 1827, as above stated, is \$220,242 64, exclusive of the amount which will be obtained from the ore, &c., now unsmelted, which is \$85,493, making a total of \$305,735 64, one-tenth of which is paid as a rent to the United States. And there is no part of the public revenue, it is believed, more cheerfully paid or more easily collected; for individuals are amassing fortunes at the mines, and do not consider it a hardship to pay for the privilege. The government is also benefited by a more extensive sale of the public lands now in the market, as very many of the miners and laborers are farmers from the States of Illinois and Missouri who resort to the mines as a certain source from whence to obtain money, much of which is expended in the purchase of land; in addition to which the market for produce is very good at the mines, and large shipments take place from the towns on the upper Mississippi. St. Louis also enjoys a profitable trade in merchandise, transportation, &c., &c., from the increased business at the upper mines. From an examination of the mineral region on the east bank of the upper Mississippi, I am fully convinced of the richness of it. It extends at least one hundred miles from south to north, and from thirty to fifty east and west. Much of the soil is very fertile, some parts of it exceedingly rich; it lies high, is well watered, containing fine springs, but is not well timbered in general; there are districts of it, however, covered with groves of thriving timber well adapted to smelting the ore; and the mines are of easy access to the Mississippi, where fuel is abundant.

I am anxious to introduce the European method of smelting lead ore, which I requested permission to do in my last annual report. The saving in fuel, and superior product, would very shortly repay the expense of erecting and placing the furnace in operation.

In my last annual report I drew the attention of the department to the clearing out of a boat channel in the rapids of the upper Mississippi. There has recently been adopted a method of navigating the river, including the rapids, by steamboats of light draught, with powerful engines, and towing *two* keel boats, each of forty tons, which will no doubt fully succeed, if the rapids are improved as suggested, and the intercourse with the mines and military posts on the upper Mississippi will be much facilitated. The importance of a safe and rapid communication with the military posts is sufficiently evident. Had the recent attack of the Indians upon the boats transporting provisions to Fort Snelling taken place whilst on their way up the river, they would have inevitably fallen into the hands of the Indians, and a general massacre taken place. I would,

therefore, respectfully urge an examination to be made of these rapids at the proper time, with a view to improving the channel.

The subject of running the north boundary line of the State of Illinois has heretofore been brought to view in my reports. The upper mines are in the vicinity of that boundary; whether in the State or not is at present uncertain. It is a matter of importance to ascertain the fact, which, it appears, has been taken for granted, as a county has been organized at the mines by the State of Illinois. Connected with this subject is the boundary between the lands of the Chippewa, Ottawa, and Pottawatomie Indians, and those of the Winnebagoes. This boundary, as defined by the ninth article of the treaty of Prairie des Chiens, (of August, 1825,) will be found very difficult to ascertain; and should further negotiations take place with the Winnebagoes, it would be well to have the boundary altered, as "the small streams emptying into the Mississippi," the heads of which are partly the boundary in question, interlock with the tributaries of Rock river, which has its course in the Winnebago country. Another cause for desiring a change of the boundary in question is, that near the Winnebago village mentioned in the ninth article of the treaty of August, 1825, there is a ford in Rock river at which the road from Peoria, principally travelled by emigrants from below, crosses that stream. At this village is a small predatory band of Indians, said to consist partly of Winnebagoes and partly of outlaws from other tribes, who are exceedingly troublesome to travellers; and it would conduce much to the peace and safety of the miners and travellers were the point of beginning the boundary removed from the village to a point higher up Rock river. The east boundary, as provided for in the ninth article of the treaty of 1825, before referred to, will be found difficult to ascertain, and, if run as now required, will, from its extreme sinuosity, be a constant source of dispute between the miners and Indians. Boundaries with the Indians should be plain and not liable to be misunderstood; those in countries where agriculture is the principal object of the inhabitants are of much less importance; for here a very small quantity of land may contain great wealth, of easy access, and consequently presenting strong temptations to the stronger to infringe upon the rights of the weaker party, for the slightest pretext whatever. I am not fully acquainted with the locality of the country in which Rock river has its source; but as the portage between the Fox river of Green Bay and the Wisconsin is a point of importance, it would seem that from them to Rock river, at some well-known point above the Winnebago village, so often referred to, and with that river to its mouth, would be a preferable boundary to the present one.

These suggestions may not come within my proper sphere of duty, but it will be kept in view that the increase of population at the mines has been beyond expectation, and there is no doubt of a still greater increase. It is therefore desirable, as far as possible, to obviate all chance of difficulties hereafter, both to enlarge the space for the operations of the miners and to define it more distinctly than at present.

The district in which the mines at present wrought are located belongs to the Chippewa, Ottawa, and Pottawatomie Indians, with the exception of the reservations provided for in the second article of the treaty of 1816. These reservations are about one twenty-fifth part of the district as defined by the treaty of 1825. The reservations being for mining purposes, they are necessarily made in detached parcels. This presents a difficulty as respects the jurisdiction of Illinois or Michigan. The intermediate land between the reservations is still the property of the Indians; a purchase of which would seem to be the only way of removing the embarrassments produced by this state of things. It is not a game country, and the Indians to whom it belongs, in part, do not frequent it; and it is believed that their right to it could now be purchased on as good if not on better terms than at any future period.

There has been much misapprehension, and consequent misrepresentation, as respects the location of the reservations provided for in the treaty of 1816. The language of the proviso in the second article is clear and explicit, viz: "Provided, That such other tracts shall not, in the whole, exceed the quantity that would be contained in five leagues square," and admits of but one construction. It should be borne in mind that it was a cession to the Ottawas, Chippewas, and Pottawatomies, of land which the United States had purchased from the Sac and Fox Indians, and that the United States had a perfect right to define the terms on which the cession should be made. The recollection of this fact will doubtless relieve the morbid sensibility of those persons who have lamented the supposed imposition upon the Indians from the government's locating the reservations for mining purposes in detached parcels, and upon the richest spots. As the leasing of the public lead mines is considered never to have been the permanent policy of the government, and as the prevention of a monopoly of the mines by capitalists or others was a principal object when reserving them from sale, I would suggest that the attainment of it is now within the reach of the government. The discovery of such rich and extensive mines on the upper Mississippi admits of a commencement of the sale of the public mines in Missouri; for if those mines are now brought into market, and those on the Mississippi reserved for some years longer, they will naturally fall into the hands of many persons, and no monopoly can be effected. The mineral lands in Missouri are all surveyed, and can be brought into market at any time by advertising those which have not before been in market. After the public sales, the land remaining unsold might then be disposed of as other lands are. Those which are leased should be sold subject to the lease. But whether the mineral lands are sold or not, it is requisite that some further provision should be made to prevent trespassing upon them, which is daily lessening their value. The laws on the subject may now be sufficient for the public lands generally, but it is thought some better provision could be made for the protection of the mineral lands. It is not to be expected that all the mineral lands would meet with purchasers immediately, and until they do they should be protected from trespassers. The whole district is a mineral one, and the restrictions upon the completion of titles of various kinds, merely because the land contains mineral, should be removed. These restrictions appear to have been imposed from the supposition that but a limited number of mines were in the country, and that the claimants under Spanish and French grants, &c., would seek to monopolize the mines. This, with some exceptions, has not been the case. The object of most of the inhabitants was to secure the best land for cultivation, as during the period the country belonged to Spain no restrictions as to mining on the King's domain existed. The several acts of Congress upon the subject prevent the completion of titles when the land contains lead ore; and the laws of Missouri do not afford protection against trespassers upon land held under incipient titles. The United States permit the claimant to occupy the land, and consequently do not interfere when trespassing takes place; the claimant being debarred the right to recover damages, has the mortification to behold the property to which he has an equitable and just title daily depredated upon by persons who have not, nor do not pretend to have, the shadow of a claim to it. This state of things is detrimental in many respects; at many of the mines the loss is considerable, and the trespassers keep forcible possession. It may readily be supposed that a population of the worst kind will naturally be drawn to the mines thus



situated, which, by a character for violence, is calculated to check the emigration to the mine country of the better and more useful sort.

The subject of making a road from Potosi to the river Mississippi, a distance of only thirty miles, has been brought to view in my reports for two years past. The amount of one or two years' rent of the mines in Missouri will be amply sufficient for the effectuation of this object; and I would earnestly repeat the recommendation. It will no doubt enhance the value of the public lands far more than the cost of the operation, and might be embraced in the same act which provides for the examination of the rapids of the Mississippi, should that proposition meet with a favorable reception.

I remain, sir, respectfully, your obedient servant,

M. THOMAS, *Lieut. U. S. A., Supt. U. S. Lead Mines.*

Colonel GEORGE BOXFORD, *on Ordnance Service, Washington*

20TH CONGRESS.]

No. 606.

[1ST SESSION.]

LAND CLAIM IN EAST FLORIDA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES JANUARY 8, 1828.

Mr. SHEPHERD, from the Committee on Private Land Claims, to whom was referred the petition of Dr. John Love, reported:

The petitioner represents himself as entitled to a tract of three hundred acres of land situate in East Florida, and for which he alleges he obtained a grant derived from the British government shortly after the year 1774, at which time he states that he came to Florida as one of the suits of the governor sent over to that province. That upon its evacuation by the British he was unable to make sale of his land, and that he preferred removing to the United States rather than returning to England, and consequently was deprived of that compensation offered by the British government to the subjects or inhabitants of East Florida affected by the transfer of that Territory. Without waiting to inquire into the character of the claim presented by the petitioner's own case, your committee feel compelled to recommend its rejection from the absence of all sort of proof to sustain the allegations of the petitioner, for neither a grant nor the evidence of its ever having existed has been offered to their consideration. They therefore recommend the adoption of the following resolution:

*Resolved,* That the prayer of the petitioner ought not to be granted.

20TH CONGRESS.]

No. 607.

[1ST SESSION.]

INVALIDITY OF SECOND WARRANT FOR LAND, THE FIRST HAVING BEEN SOLD, LOCATED, AND PATENTED.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES JANUARY 8, 1828.

Mr. EARLL, from the Committee on Private Land Claims, who were instructed by a resolution of this House "to inquire into the expediency and justice of allowing Minor Thomas, of Indiana, to locate four hundred and eighty acres of land in the State of Indiana, under a military land warrant issued to Lieutenant Abraham Cutler July 17, 1820, by Josiah Meigs, Commissioner of the General Land Office, and assigned to said Thomas by said Cutler, the said warrant being a second one issued for the same land, and the said Thomas having been induced to pay for the land, and received an assignment of the warrant, by the representations of the proper officers that the land could be located under the warrant," reported:

That from the documents referred to said committee by said resolution the following facts appear: That on July 17, 1820, a certificate or land warrant was issued by Josiah Meigs, then Commissioner of the General Land Office, as follows: "I certify that satisfactory proof has been exhibited in this office that a warrant, No. 93, issued in favor of Abraham Cutler, late a second lieutenant in the corps of Canadian volunteers, for 480 acres of land, and that the said warrant is illegally withheld from him by his agent: Therefore he may, on presentation of this certificate to a register of a land office, locate his claim upon lands in the State of Indiana according to law." "To the registers at Vincennes, Jeffersonville, Cincinnati, Terre Haute, and Brookville."

It further appears that on July 16, 1825, the said certificate was assigned by the said Abraham Cutler to the said Minor Thomas for the consideration of six hundred dollars. It further appears, by the affidavit of the said Minor Thomas, and by the affidavit of one William W. Thomas, that in April or May, 1825, said Minor Thomas applied to Robert Hanna, junior, the register of public lands at Brookville, to ascertain whether said certificate was authentic, and whether the land specified in said certificate could be located by said Thomas if he should purchase said certificate of said Cutler; and that the said Hanna stated

new comers can buy for one-fifth of what he has paid when the country was a wilderness. Our Territory will be filled with squatters, who are a pest to society. By the provisions of this bill any one may obtain an eighty acre lot by residing upon it, and may purchase a thousand acres in its vicinity. Speculation will be the order of the day; immense quantities of land will be purchased at twenty-five cents by companies and individuals; a credit system will be established; and the price of land raised from twenty-five cents to two or three dollars per acre. The cash system for the disposal of public lands has produced the happiest results in establishing a moral population for the Territory of Michigan. The present price secures to the United States a fair compensation for the expenses attendant upon the acquisition and survey of new lands, and secures to the settler a respectable neighborhood. Your honorable bodies cannot for a moment imagine that our society would be benefited by giving away the public lands, and thus enticing the dregs of community from the old States. We appeal to your honorable bodies for protection against a system which we think must drive every respectable man out of this country. If your honorable bodies were disposed to establish a place of refuge for the refuse of society; if you were inclined to draw off from the old States that portion of the people who are a nuisance to any country, we think it would not be amiss to fix upon some place in the interior of the northwestern Territory, and to offer lands, within a given district, to the settler free of expense; but we beg that Michigan may not be selected for that object. We are far from objecting to a grant of land from the United States to the several States and Territories within whose boundaries these lands may lie; but let that grant be made now; now we have roads, and bridges, and canals to make. Let the first settlers be benefited by these lands; let them have some compensation for the expense of making roads for those who are to come after them. It must be obvious to your honorable bodies, that this bill, if it passes into a law, must procrastinate the settlement of new countries, as emigrants will wait until the land falls to its lowest price. We think this bill should be entitled "A bill for the encouragement of squatters and speculators; for the destruction of the moral character of new countries; for a tax upon the first settlers, and a premium to those who come last; and for the establishment of the old credit system."

MICHIGAN, *March 10, 1828.*

20TH CONGRESS.]

No. 676.

[1ST SESSION.]

EXPENSES AND PRODUCT OF LEAD MINES AND LAND RESERVED FOR SAME IN MISSOURI.

COMMUNICATED TO THE SENATE APRIL 8, 1828.

DEPARTMENT OF WAR, *April 7, 1828.*

SIR: In obedience to the resolution of the Senate of the 26th ultimo, directing the Secretary of War "to inform the Senate what amount of lead has been received for leases of lead mines, in the State of Missouri, annually, for the last three years; also what quantity of land supposed to contain lead mines has been reserved from sale in said State; also what amount of lead has been received for leases of all the lead mines since the present leasing system has been pursued; what amount has been deposited in arsenals for public use, and what amount has been sold; also what amount of expense has been incurred in carrying on the present leasing system, and for what objects, with a detailed exhibit of said expenses, for the year eighteen hundred and twenty-seven," I have the honor to enclose herewith reports from the Commissioner of the General Land Office, the Second Auditor of the Treasury, and the Colonel of Ordnance, which furnish the information required.

I have the honor to be your obedient servant,

JAMES BARBOUR

The PRESIDENT of the Senate.

GENERAL LAND OFFICE, *April 2, 1828.*

SIR: In reply to your inquiry, I have the honor to state that there has been reserved from sale, in the State of Missouri, four hundred and thirty-seven thousand acres of land, supposed to contain lead and mineral.

With great respect, your obedient servant,

GEORGE GRAHAM.

Hon. JAMES BARBOUR, *Secretary of War.*

TREASURY DEPARTMENT, *Second Auditor's Office, April 5, 1828.*

SIR: In compliance with a resolution of the Senate of the United States dated 26th March last, I have the honor to transmit herewith a statement of the amount of expense incurred in carrying on the present leasing system of the United States lead mines up to December 31, 1827, inclusive, so far as can be ascertained from the books of this office.

I am, very respectfully, your obedient servant,

WM. LEE.

Hon. JAMES BARBOUR, *Secretary of War.*

annually, for the last three years, to wit: from September 30, 1824, to September 30, 1827, has been as follows, viz:

	Pounds.
For the year ending September 30, 1825.....	38,659
For the year ending September 30, 1826.....	137,496
For the year ending September 30, 1827.....	91,038
Total.....	<u>267,193</u>

That the amount of lead which has been received for leases of all the lead mines since the present leasing system has been pursued, to wit: from the year 1821 (when the business was confided to this department) to September 30, 1827, has been as follows, viz:

	Pounds.
From the lead mines leased in Missouri.....	267,193
From the lead mines leased at Fevre river.....	731,590
Total amount received from all the lead mines.....	<u>998,783</u>

And that the amount of lead which has been deposited in arsenals for public use, and the amount which has been sold during the above-mentioned period, has been as follows, viz:

	Pounds.	Pounds.
Deposited in the arsenal at Pittsburg.....	56,618	
Deposited in storehouses at Potosi, St. Louis, and Selma, Missouri, and at Fevre river..	935,687	
Issued to the United States troops.....	2,158	
Total deposited for public use.....	<u>994,463</u>	
Amount sold January 1, 1826, by direction of the Secretary of War.....		4,320
Total amount received as above.....		<u>998,783</u>

I have the honor to be, sir, your most obedient,

GEO. BOMFORD, *Brevet Colonel, on Ordnance service.*

Hon. J. BARBOUR, *Secretary of War.*

20TH CONGRESS.]

No. 677.

[1st Session.]

ADVERSE TO GRANTING A TOWNSHIP OF LAND TO KENYON COLLEGE, IN OHIO.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES APRIL 9, 1828.

Mr. ISACKS, from the Committee on Public Lands, to whom was referred the bill from the Senate entitled "An act granting a township of land to Kenyon College, in Ohio," reported:

That the object of the bill is substantially stated in the title. The committee are fully satisfied that this institution is one of the most interesting which has been recently established, and promises permanent and extensive usefulness, and that the efforts of its founder have been extraordinary and well directed. The committee would gladly be instrumental in its promotion, but, in their opinion, to make the grant proposed would be to introduce a practice in regard to the disposition of public lands the extent of which cannot now be foreseen or limited. The committee cannot resist the consideration that many other seminaries of learning would, in the event of this donation being made, present their claims to a like participation in the liberality of the government. That there are others equally meritorious, or differing only in degree, and less fortunate in other means of support, cannot be doubted. To discriminate between them would be invidious, and might often be unjust, and thereby produce a state of things in which the course of literature and the respect for the government might both be in danger of suffering. To prevent this the tendency of the practice would be to grant the reasonable applications of *all*, till, in the end, the interest and control of the government might be lost in the collisions and conflicts among the donees and the inhabitants of the country in regard to the division of the lands.

The committee therefore recommend the rejection of the bill.



AMERICAN STATE PAPERS.

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DOCUMENTS

OF THE

CONGRESS OF THE UNITED STATES,

IN RELATION TO

THE PUBLIC LANDS,

FROM THE

FIRST SESSION OF THE TWENTY-FIRST TO THE FIRST SESSION OF THE TWENTY-THIRD CONGRESS,

COMMENCING DECEMBER 1, 1828, AND ENDING APRIL 11, 1834.

---

SELECTED AND EDITED, UNDER THE AUTHORITY OF CONGRESS.

BY

ASBURY DICKINS, SECRETARY OF THE SENATE,

AND

JOHN W. FORNEY, CLERK OF THE HOUSE OF REPRESENTATIVES.

---

VOLUME VI

WASHINGTON:  
PUBLISHED BY GALES & SEATON.  
1860.

Public Lands document 854

1830 May 24

US House Committee, Irvin reporting

On the disposition of certain reservations of land in Ohio

(Public Land document 854 is the first to mention sections 8, 11, 26, and 29 reserved to the general government. Ohio wanted the 4 reserved sections of every township donated for the use of the common schools in their vicinity. The US HR Committee did not recommend making the donation, but neither did it explain its remarks)

'The committee are not aware of any good reason why these reserved sections should be given for the use of common schools in their vicinity. If they should be granted for that purpose, other places would have an equal claim on the bounty of the government, and would feel neglected if their requests of a similar character were not complied with. As it is entirely within the power of the Commissioner of the General Land Office to have these lands surveyed and sold without any new enactment on the subject, the committee therefore ask to be discharged from the further consideration of the subject.'

one John Collins, (who is supposed not to be the original grantee of the tract of land mentioned,) through the agency of Philip Trammell and George C. Hart, procured a *certificate* from the recorder of land titles authorizing a location of other lands. The location was made in Howard county; and after a patent had been issued by the United States, a deed for the lands was regularly executed by the said John Collins to Philip Trammell. Afterwards, in November, 1821, Trammell sold three hundred acres of said tract for \$1,500 to James W. Brannin. Brannin alleges and swears that he had no knowledge or suspicion that there was any fraud in procuring the said certificate and patent, the legal chain of title being completed. In August, 1827, Trammell sold to Charles Hughes one hundred and eighty acres of the original tract; and on the 29th of the same month he, Trammell, sold the remaining one hundred and sixty acres to Nathaniel Ford—both for a valuable consideration.

A bill has been lately filed by the United States in the district court of Missouri against Trammell, Brannin, Hughes, and Ford, alleging that the certificate and patent were fraudulently obtained by Trammell and Hart, in the name of Collins; alleging also that the John Collins who obtained the certificate and patent was *not the John Collins* to whom the original grant had been made, and praying a *repeal* of the patent. The defendants all answer separately, under oath, and deny all knowledge of the fraud, if there was any; and the present petitioners swear positively that they purchased of Trammell without any knowledge or notice of any such fraud.

To show the probability of their purchasing without notice of the fraud, the petitioners have exhibited the affidavits of a great number of the most respectable citizens in the neighborhood of the lands, proving that it was generally believed that Trammell's title was good; that there was no suspicion against the title. To corroborate this, evidence is exhibited showing that a suit was instituted against Trammell by some person in the name of John Collins for the same tract of land, on the ground that the Collins who obtained the certificate was not the original grantee, and that he had personated the *real* owner of the lands. This suit was decided in favor of Trammell, which, the petitioners allege, confirmed them in the belief that the title was good.

The committee are of opinion that the John Collins who obtained the certificate and patent was not the original grantee under the Spanish government. They believe that the petitioners purchased *without* knowledge of the fraud; and they think that as the officer of the government, by granting the certificate upon which a patent issued, enabled the said Collins to make sale of the lands to the petitioners, it would now be inequitable and unjust for the government to repeal the patent and destroy the title of the petitioners, especially when they have, under the faith of the title made by the government, purchased these lands at a high price, and made improvements on them of equal value with the lands.

It is the opinion also of a part of the committee that, although it may appear to the court that the petitioners did purchase without notice, still, if there was fraud in thus obtaining the certificate and patent, the court would be compelled to decree that the patent should be repealed.

Believing that it would be unjust and oppressive for the government to take advantage of its own act and the act of its officer, by which the petitioners were deceived and induced to make the purchase, thus to deprive them of their lands, they recommend that the United States relinquish their title to the petitioners. This appears the more reasonable when it is borne in mind that Trammell is insolvent and Collins made a quit-claim deed only, leaving the petitioners without any redress. The committee therefore report a bill.

21st CONGRESS.]

No. 854.

[1st SESSION.]

## ON THE DISPOSITION OF CERTAIN RESERVATIONS OF LAND IN OHIO.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES MAY 24, 1830.

Mr. IRVIN, from the Committee on the Public Lands, to whom was referred the resolution of the House to inquire into the title of sections eight, eleven, twenty-six, and twenty-nine, in the thirteenth township and seventh range, in the Steubenville district, so called, in Ohio, and also into the expediency of making a donation of said sections for the use of common schools in the vicinity, or otherwise disposing of the same, reported:

That, by an ordinance of Congress for ascertaining the mode of disposing of lands in the Western Territory, passed the 20th May, 1785, the four lots or sections numbered 8, 11, 26, 29 are reserved out of every township for the United States, and out of every fractional part of a township so many lots of the same numbers as shall be found thereon for future sale. Lot numbered sixteen of every township was reserved also for the maintenance of public schools within the township.

By a resolution passed the 1st of October, 1787, Congress gave one complete and entire township of land to Arnold Henry Dohrman, subject "to the reservations as in the other townships, agreeably to the ordinance of the 20th of May, 1785, out of the three last ranges surveyed in the Western Territory of the United States," to be selected by the said Dohrman.

By an act of Congress passed the 27th February, 1801, the President of the United States was authorized to issue a patent for the thirteenth township, in the seventh range, to Arnold Henry Dohrman, or his legal representatives, agreeably to a resolution of Congress of the first day of October, in the year 1787. By virtue of the provisions of this act a patent was issued on the 15th day of May, 1801, to William Bayard and William Constable for the above-described township of land, in trust, for the uses and purposes expressed in a deed between the grantees and the said Dohrman. In the patent it is expressly declared that the grant is subject to the reservations provided in and by the act and resolution of Congress above recited.

It is the opinion of the committee that these reserved sections now belong to the United States, and that they ought to be surveyed and sold for the benefit of the government.

The committee are not aware of any good reason why these reserved sections should be given for



the use of common schools in their vicinity. If they should be granted for that purpose, other places would have an equal claim on the bounty of the government, and would feel neglected if their requests of a similar character were not complied with.

As it is entirely within the power of the Commissioner of the General Land Office to have these lands surveyed and sold without any new enactment on the subject, the committee therefore ask to be discharged from the further consideration of the subject.

[21st Congress.]

No. 855.

[1st Session.]

## RELATING TO SETTLEMENTS ON THE PUBLIC LANDS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES MAY 26, 1830.

TREASURY DEPARTMENT, *May 25, 1830.*

SIR: In compliance with a resolution of the House of Representatives, requesting the Secretary of the Treasury to communicate to the House "copies of any letters or communications to, or papers or documents in, the Land Office, relating to settlements on the public lands, or relating to the proceedings thereon, respecting the settlement or purchase of public lands, or extracts therefrom, which, in his opinion, may with propriety be communicated; also a copy of the communication of the Commissioner of the General Land Office to the President of the United States, dated March 5, 1830, relating to a bill then pending before the Senate," I have the honor to transmit a report from the Commissioner of the General Land Office, with the paper requested.

I have the honor to be, very respectfully, your obedient servant,

S. D. INGHAM, *Secretary of the Treasury.*HON. A. STEVENSON, *Speaker of the House of Representatives.*TREASURY DEPARTMENT, *General Land Office, May 25, 1830.*

SIR: In obedience to the enclosed resolution of the House of Representatives of this date, in the words following, to wit:

"Resolved, That the Secretary of the Treasury be requested to communicate to this House copies of any letters or communications to, or papers or documents in, the Land Office, relating to settlements on the public lands, or relating to the proceedings of the settlers thereon, respecting the settlement or purchase of the public lands, or extracts therefrom, which, in his opinion, may with propriety be communicated; also a copy of the communication of the Commissioner of the General Land Office to the President of the United States, dated March 5, 1830, relating to a bill then pending before the Senate," which you have referred to this office, I have the honor herewith to communicate a copy of the letter of the 5th March last alluded to, together with copies of three letters, one of which was referred from the War Department, now on the files of this office, having reference to the conduct of the settlers on certain public lands in Alabama, papers marked A, B, C, and D, which furnish all the information the records and files of the office afford on the subject of the resolution.

With great respect, your obedient servant,

GEO. GRAHAM.

HON. SAMUEL D. INGHAM, *Secretary of the Treasury.*

A.

*Copy of a letter from the Commissioner of the General Land Office to the President of the United States, on the subject of the bill "to grant pre-emption rights to settlers on the public lands," dated March 5, 1830.*

I now submit, in compliance with your request, those observations in relation to a bill passed by the Senate and now pending in the House of Representatives "to grant pre-emption rights to settlers on the public lands" which were heretofore verbally communicated to you.

The 1st section of this act grants to every occupant of the public lands now in possession, and who cultivated any part of it in 1829, any number of acres, not more than 320, to be taken by legal subdivisions. An amendment proposed in the House of Representatives reduces the quantity to 160 acres.

The 3d section of the bill declares that the act shall remain in force for one year from and after its passage. A substitute for this section has been proposed in the House of Representatives, which does away all limitations as to the continuance of the act, and provides only for the mode in which the settlement and improvement shall be proved. These provisions of the act extend to all the public lands, as well those which have not been proclaimed for sale as those which have, and are now subject to entry at the minimum price. With respect to the first description of lands, the effect of the act will be to prevent the Executive from proclaiming for sale, during the continuance of the act, any of the public lands. There being no limitation as to the time when the lands to which the right of pre-emption may accrue shall be paid for, it is to be presumed that Congress intend that payment may be made at any time within the period for which the law may be in force; and again, as the bill authorizes a selection of the land to be

BY AUTHORITY OF CONGRESS.

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THE  
**Public Statutes at Large**  
OF THE  
**UNITED STATES OF AMERICA,**

FROM THE  
ORGANIZATION OF THE GOVERNMENT IN 1789, TO MARCH 3, 1845.

ARRANGED IN CHRONOLOGICAL ORDER.

WITH  
REFERENCES TO THE MATTER OF EACH ACT AND TO THE SUBSEQUENT ACTS  
ON THE SAME SUBJECT,

AND  
COPIOUS NOTES OF THE DECISIONS

OF THE

**Courts of the United States**

CONSTRUING THOSE ACTS, AND UPON THE SUBJECTS OF THE LAWS.

WITH AN  
INDEX TO THE CONTENTS OF EACH VOLUME,  
AND A  
FULL GENERAL INDEX TO THE WHOLE WORK, IN THE CONCLUDING VOLUME.

TOGETHER WITH

*The Declaration of Independence, the Articles of Confederation, and  
the Constitution of the United States;*

AND ALSO,

TABLES, IN THE LAST VOLUME, CONTAINING LISTS OF THE ACTS RELATING TO THE JUDICIARY,  
IMPOSTS AND TONNAGE, THE PUBLIC LANDS, ETC.

EDITED BY

**RICHARD PETERS, ESQ.,**  
COUNSELLOR AT LAW.

The rights and interest of the United States in the stereotype plates from which this work is printed, are hereby recognised, acknowledged, and declared by the publishers, according to the provisions of the joint resolution of Congress, passed March 3, 1845.

VOL. V.

BOSTON:

LITTLE, BROWN AND COMPANY.

1856.

stores and supplies procured for the use of said vessel, and to allow him a credit for whatever sum appears to be due from him on the books of the department.

APPROVED, June 15, 1844.

STATUTE I.

June 15, 1844.

March 3, 1843,  
ch. 88.

Act of March  
3, 1843, re-  
pealed.

Northern line  
run by J. S.  
Sprigg to be  
northern bound-  
ary of reserva-  
tion.

CHAP. LIV.—*An Act to repeal an act entitled "An act directing the survey of the northern line of the reservation for the half-breeds of the Sac and Fox tribes of Indians, by the treaty of August, one thousand eight hundred and twenty-four," approved March third, one thousand eight hundred and forty-three.*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An act directing the survey of the northern line of the reservation for the half-breeds of the Sac and Fox tribes of Indians, by the treaty of August, one thousand eight hundred and twenty-four," approved March third, one thousand eight hundred and forty-three, be, and the same is hereby repealed.*

SEC. 2. *And be it further enacted, That the northern line of said reservation, as run and marked by Jenifer S. Sprigg, in the years one thousand eight hundred and thirty-two and one thousand eight hundred and thirty-three, under contract with William Clark, superintendent of Indian affairs, be, and the same is hereby, ratified, approved, and established, as the correct northern boundary of said reservation.*

APPROVED, June 15, 1844.

STATUTE I.

June 15, 1844.

When a 16th  
section is inclu-  
ded in a private  
claim, lands  
adjacent may be  
selected in lieu.

Proviso.

CHAP. LV.—*An Act to authorize the selection of certain school lands in the Territories of Florida, Iowa, and Wisconsin.*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That wherever the sixteenth sections in said Territories, either in whole or in part, are now, or may hereafter be, included in private claims held by titles confirmed or legally decided to be valid and sufficient, other lands equivalent thereto, within any land district in said Territories most adjacent to said lands so taken up by private claims, "which have been offered at public sale, and remain unsold," may be selected in lieu thereof, under the direction of the Secretary of the Treasury: and the lands so selected shall be entered in the office of the register of the land district in which they may lie, and be by such register reported to the Commissioner of the General Land Office as school lands selected under this act: *Provided*—That, before making any entry of such other lands, the case shall be made out to the satisfaction of the register and receiver of said district, agreeably to rules to be prescribed by the Commissioner of the General Land Office, for the purpose of showing that the sixteenth section, or part thereof, has been included in the manner above mentioned.*

APPROVED, June 15, 1844.

STATUTE I.

June 15, 1844.

Two half lots  
granted to the  
own.

CHAP. LVI.—*An Act granting to the county of Dubuque, certain lots of ground in the town of Dubuque.*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following described pieces or parcels of land are hereby granted and given to the county of Dubuque, in the Territory of Iowa, to wit: Two lots and a half lying and being situate in the town of Dubuque, on the northwest corner of Seventh and Locust streets, in said county, being the same land upon which the old county jail now stands, and is designated on the Government plat of said town as "public square."*

SEC. 2. *And be it further enacted, That the county commissioners of the county of Dubuque be, and they are hereby authorized and em-*



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IN SENATE OF THE UNITED STATES.

FEBRUARY 7, 1844.

Mr. WOODBRIDGE, from the Committee on Public Lands, submitted a report, (No. 100,) accompanied by the following bill; which was read, and passed to a second reading.

---

**A BILL**

To authorize the school trustees, or other lawful authorities having charge of the subject of common schools, in surveyed township forty-eight north, of range eighteen west, in the county of Cooper, and State of Missouri, to enter a section of land, in lieu of section sixteen, in said township, for the use of schools.

1       *Be it enacted by the Senate and House of Representatives*  
2       *of the United States of America in Congress assembled, That*  
3       the trustees, or other legal authorities having charge of  
4       schools in the surveyed township number forty-eight north,  
5       of range number eighteen west, in the county of Cooper, and  
6       State of Missouri, be, and they are hereby, authorized to en-  
7       ter a quantity equal to one full section, in legal subdivi-  
8       sions of not less than quarter sections, of any of the public  
9       lands subject at the time of such entry to sale, and not then  
10      subject to any right of pre-emption, within said township,  
11      provided so much vacant land be found therein of good  
12      quality; but if no such vacant land be found therein, or not  
13      enough to constitute one section, then the whole, or the defi-  
14      ciency, (as the case may be,) may be entered and located in

locations as aforesaid, within any the nearest adjacent

15. quarter sections as aforesaid, within any the nearest adjacent  
16. townships where such good land may be found; the same  
17. entry and selections being made subject to the approbation  
18. of the Secretary of the Treasury, and to be taken in lieu of  
19. the section number sixteen in said township, heretofore  
20. claimed by Pierre Chouteau, and confirmed and patented to  
21. him. And the Commissioner of the General Land Office is  
22. hereby directed, upon the receipt by him of the proper proof  
23. and such entry and location or locations, upon the approbation  
24. thereof by the Secretary of the Treasury, to issue a patent or  
25. patents therefor: Provided, however, that the inhabitants of  
26. said township shall, previous to the action thereon of said  
27. Secretary of the Treasury, at a legal meeting called for that  
28. purpose, agree to accept of said land so as aforesaid entered  
29. and located, in lieu of said section number sixteen, for the use  
30. of a school or schools in said township: And Provided, fur-  
31. ther, that the said entry and location or locations shall be  
32. made within two years from the passing of this act.

1.           Sec. 2. And be it further enacted, That the land so as  
2. aforesaid entered and patented in lieu of said section number  
3. sixteen, shall be subject to the same uses, be under the same  
4. management, and the usufruct and the proprietary interest  
5. thereof be liable to the same disposition, in all respects, as  
6. section number sixteen, in said township, would have been if  
7. it had not been confirmed and patented as aforesaid.

JOURNAL

210  
28-2-48

OF THE

HOUSE OF REPRESENTATIVES

OF

THE UNITED STATES:

BEING

THE FIRST SESSION OF THE THIRTIETH CONGRESS,

BEGUN AND HELD

AT THE CITY OF WASHINGTON,

DECEMBER 6, 1847,

IN THE SEVENTY-SECOND YEAR OF THE INDEPENDENCE OF THE UNITED STATES.



WASHINGTON:

PRINTED BY WENDELL AND VAN BENTHUYSEN.

.....

1847-'48.



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JOURNAL

OF

THE SENATE OF THE UNITED STATES OF  
AMERICA:

1121  
3625  
Part 1

BEING

THE SECOND SESSION OF THE THIRTIETH CONGRESS,

BEGUN AND HELD

AT THE CITY OF WASHINGTON,

DECEMBER 4, 1848,

IN THE SEVENTY-THIRD YEAR OF THE INDEPENDENCE OF THE UNITED STATES.

ALSO,

THE JOURNAL OF THE SENATE

AT

THE SPECIAL SESSION,

Commencing March 5, 1849,

AND

THE EXECUTIVE PROCEEDINGS OF THE SENATE,

FROM WHICH THE INJUNCTION OF SECRECY WAS REMOVED DURING THOSE SESSIONS.

---

WASHINGTON:

WENDELL AND VAN BENTHUYSEN, PRINTERS.

1849.

---

IN THE SENATE OF THE UNITED STATES.

JULY 3, 1848.

Mr. BORLAND, from the Committee of Public Lands, submitted a report, [No. 199,] accompanied by the following bill: which was read, and passed to a second reading.

---

**A BILL**

Allowing exchanges of, and granting additional, school lands  
in the State of Arkansas.

1       *Be it enacted by the Senate and House of Repre-*  
2 *sentatives of the United States of America in Congress*  
3 *assembled,* That where the sixteenth section heretofore  
4 set apart for the use of schools in the State of Arkansas  
5 has been, or shall be found of an inferior quality, unfit for  
6 cultivation, or unfavorably located, the inhabitants of  
7 each township under the authority of the State of  
8 Arkansas, shall be at liberty to relinquish the said  
9 sixteenth section, and to select in lieu thereof any other  
10 section, either as a whole section, or in any legal sub-  
11 divisions, within the same township that may remain sub-  
12 ject to sale by private entry, or should none such remain  
13 in the same township, then the selection may be made in  
14 each case from any land within the limits of the State  
15 subject to sale by private entry, to be entered and re-



16 corded at the proper land office of the district in which  
17 the selected land may lie, and a proper conveyance made  
18 therefor, in the usual form under the authority of the  
19 United States.

1       SEC. 2. *And be it further enacted,* That there  
2 shall be selected in the manner set forth in the preced-  
3 ing section of this act, an additional section of land,  
4 either as a whole section, or in any legal subdivisions,  
5 for each township within the State of Arkansas and  
6 under its authority, which section is hereby granted  
7 for the use of schools within such township, and shall  
8 be recorded and conveyed as before stated.

1       SEC. 3. *And be it further enacted,* That the land  
2 authorized to be selected and granted by the first and  
3 second sections of this act, or by any preceding acts for  
4 similar purposes, or any part of the same, may be, by the  
5 proper authorities, disposed of at public or private sale,  
6 or may be leased for a term of years, and the proceeds  
7 may be invested in some safe and productive stock, and  
8 applied solely for the use, support, and extension of  
9 schools in each of the townships within the State of  
10 Arkansas for which the grant may have been intended  
11 and made.

---

IN THE SENATE OF THE UNITED STATES.

MARCH 10, 1848.

Agreeably to notice, Mr. YULEE asked and obtained leave to bring in the following bill: which was read, and passed to a second reading.

MARCH 20, 1848.

Reported with an amendment, viz: Insert the part printed in *italics*.

---

**A BILL**

Concerning school lands in the State of Florida.

1       *Be it enacted by the Senate and House of Repre-*  
2 *sentatives of the United States of America in Congress*  
3 *assembled,* That there shall be reserved from sale in the  
4 State of Florida a quantity of land equal to one thirty-sixth  
5 part of the lands covered by confirmed Spanish grants  
6 within the said State of Florida, to be selected under the  
7 direction of the governor of said State, out of any public  
8 lands remaining unsold in the said State of Florida, in sec-  
9 tions, half sections, quarter sections, or previously defined  
10 fractions; which lands, when so selected, as aforesaid,  
11 shall vest in the State of Florida for the use of *the inhabi-*  
12 *tants in the several townships in which they may be*  
13 *located for the support of schools* within said State, to be  
14 holden by the same tenure, and upon the same terms and

15 conditions, in all respects, as the said State now holds the  
16 lands heretofore reserved for the use of schools in said  
17 State, and for the benefit of the same persons who would  
18 have enjoyed the advantage of the same, had there been  
19 no interfering grants.

1       **SEC. 2.** *And be it further enacted,* That in all cases  
2 in which the sixteenth section of any township in said  
3 State, whether the said township shall have been divided  
4 into sections or not, shall be found to be valueless by rea-  
5 son of its being barren or inundated, or from any other  
6 cause, an equivalent quantity of land may be selected in  
7 lieu thereof, under the direction of the governor of said  
8 State, out of any public lands remaining unsold in the  
9 same land district, subject to the same uses, as pro-  
10 vided in the act of March third, eighteen hundred and  
11 forty-five, entitled "An act supplemental to the act for the  
12 admission of Florida and Iowa into the Union, and for  
13 other purposes."



**H. R. 574.**

[No Report.]

---

IN THE HOUSE OF REPRESENTATIVES.

JUNE 20, 1848.

Read twice, and left upon the Speaker's table.

---

Mr ALEXANDER EVANS, from the Committee on Public Lands,  
reported the following bill :

**A BILL**

Granting a half section of land for the use of schools within fractional township nineteen south, of range eighteen west, county of Lowndes, State of Mississippi.

1       *Be it enacted by the Senate and House of Repre-*  
2       *sentatives of the United States of America in Congress*  
3       *assembled,* That the school commissioners, or other au-  
4       thority, having official cognizance over school lands with-  
5       in fractional township nineteen south, of range eighteen  
6       west, State of Mississippi, be, and they are hereby, au-  
7       thorized to select by legal sub-divisions, from any of the  
8       public lands within the said State, not otherwise appro-  
9       priated, a quantity of land not exceeding one-half section,  
10      for the use and support of schools within the said frac-  
11      tional township.

1        SEC. 2. *And be it further enacted*, That when the  
2 lands, hereby authorized to be selected, shall have been  
3 approved by the Secretary of the Treasury, they shall be  
4 held by the inhabitants of the township herein designated  
5 by the same tenure, and upon the same terms, for the sup-  
6 port of schools in the said township, as if they had been  
7 selected under the provisions of the general school law of  
8 the twentieth of May, one thousand eight hundred and  
9 twenty-six: *Provided, nevertheless*, That the said com-  
2 missioners, or other authority mentioned in the first  
3 section of this act, shall not be authorized by any-  
4 thing herein contained to select lands out of the land  
5 district in which said fractional township is situated, if  
6 there be land within said district applicable to school pur-  
7 poses, under the provisions of the act of May twentieth,  
8 eighteen hundred and twenty-six.

**IN THE SENATE OF THE UNITED STATES:**

JULY 20, 1848.

Read twice, and referred to the Committee on Public Lands.

**AN ACT**

To grant land to the inhabitants of townships eighteen north, of ranges one and two west, of the fourth principal meridian of the State of Illinois, for school purposes.

1       *Be it enacted by the Senate and House of Repre-*  
2       *sentatives of the United States of America in Congress*  
3       *assembled,* That the school commissioners, or other au-  
4       thority, of townships eighteen north, of ranges one and  
5       two west, of the fourth principal meridian of the State of  
6       Illinois, empowered to select school land, be, and they are  
7       hereby, authorized to select, not exceeding one hundred  
8       and sixty acres of land for each of said townships, from  
9       any lands open to private entry within the land district  
10      within which said townships are situated, to be set apart  
11      and used for the support of schools within said townships,  
12      in the same manner as the sixteenth section is now set  
13      apart by law, and not otherwise: *Provided,* That said  
14      selections shall be made, and the register of the district  
15      land office notified thereof, within one year from the pas-



16 sage of this act: *And provided, further,* That said com-  
 17 missioners, or other authority as above empowered, shall,  
 18 at or before the time of notifying the register of said se-  
 19 lection, file a relinquishment of the land to which said  
 20 townships would be entitled for the support of schools,  
 21 under the act of May twentieth, eighteen hundred and  
 22 twenty-six.

Passed the House of Representatives: *July 19, 1848.*

Attest: **THO. J. CAMPBELL, Clerk.**

---

**IN THE SENATE OF THE UNITED STATES.**

JULY 20, 1848.

Read twice, and referred to the Committee on Public Lands.

---

## **AN ACT**

To grant other land in lieu of the sixteenth section to the school commissioners of township two north, range nine west, of the fourth principal meridian in the county of Adams, in the State of Illinois.

1       *Be it enacted by the Senate and House of Repre-*  
2 *sentatives of the United States of America in Congress*  
3 *assembled, That the school commissioners, or other au-*  
4 *thority, of township two north, range nine west, of the*  
5 *fourth principal meridian in the county of Adams, and*  
6 *State of Illinois, having jurisdiction over school lands, be,*  
7 *and they are hereby, authorized to select a section of land*  
8 *within the limits of the said county of Adams, in lieu of*  
9 *the sixteenth section in the above township: Provided,*  
10 *That said selection shall be made, and the register of the*  
11 *land office notified thereof, within one year from the pas-*  
12 *sage of this act, and that the said section, when so se-*  
13 *lected, shall be applied to the use of schools, in the same*  
14 *manner that the sixteenth section is now required to be*

15 applied, and not otherwise: *And provided, further, That,*  
16 at the time of notifying the register, as above required, the  
17 said commissioners, or other authority, shall relinquish and  
18 forever quit claim to the United States the sixteenth sec-  
19 tion to which they are now entitled by law.

Passed the House of Representatives, *July 19, 1848.*

Attest :                      **THO. J. CAMPBELL, Clerk.**



---

**IN THE SENATE OF THE UNITED STATES.**

JULY 20, 1848.

Read twice, and referred to the Committee on Public Lands.

---

**AN ACT**

To grant unto the trustees of township thirty-eight north, of range five east, in the county of Elkhart, and State of Indiana, so much public land as may, with the fractional sixteenth section therein, make up an entire section.

1       *Be it enacted by the Senate and House of Repre-*  
2       *sentatives of the United States of America in Congress*  
3.       assembled, That the Secretary of the Treasury be. and  
4.       he is hereby, required to issue a land warrant to the trus-  
5.       tees of schools of township thirty-eight north, of range  
6.       five east, in the county of Elkhart, and State of Indiana,  
7.       for two hundred acres of land, to be located according to  
8.       the divisions of the public lands, upon any of the unap-  
9.       propriated lands of the United States, within the limits of  
10.      said Elkhart county; said land to be applied by the said  
11.      trustees for the benefit of the schools of said county, in  
12.      the same manner that the said sixteenth section is now re-  
13.      quired to be applied by law and not otherwise: Provided

- 14 That said warrant shall be located within one year from
- 15 the passage of this act.

Passed the House of Representatives: *July 19, 1848.*

Attest: **THO. J. CAMPBELL, Clerk.**

---

**IN THE SENATE OF THE UNITED STATES.**

DECEMBER 18, 1848.

Agreeably to notice, Mr. DOWNS asked and obtained leave to bring in the following bill; which was read twice, and referred to the Committee on Public Lands.

FEBRUARY 1, 1849.

Reported without amendment.

---

**A BILL**

Authorizing new selections of land in lieu of worthless school sections, or sections of inferior quality, and for other purposes.

1       *Be it enacted by the Senate and House of Repre-*  
2 *sentatives of the United States of America in Congress*  
3 *assembled, That in all cases in which the school, or six-*  
4 *teenth section, has fallen, or may hereafter fall, upon irre-*  
5 *claimable sea-marsh, or upon lands subject to overflow,*  
6 *or unfit for cultivation, or of inferior quality, it shall and*  
7 *may be lawful, on satisfactory proof of the fact being*  
8 *made to the district land office, for the authorities*  
9 *of the States, entitled to school sections, to select in lieu*  
10 *of such worthless or inferior sections, or of any part*  
11 *thereof, an equal quantity on other lands in the same*  
12 *township in which the original tract is situated, or in the*



13 nearest adjacent township, in the same land district, in  
14 which good lands can be obtained; and upon the ap-  
15 proval, by the Secretary of the Treasury, of the new se-  
16 lection, under the authority of this act, the original tract  
17 shall *ipso facto* revert to, and become public lands of the  
18 United States.

1       SEC. 2. *And be it further enacted*, That in view  
2 of the *constitutional* provisions of the State of Louisiana,  
3 respecting the establishment of free schools throughout  
4 the State, and for the reasons appearing in the memorial,  
5 as approved on the twenty-seventh February, eighteen  
6 hundred and forty-seven, of the legislature of that State,  
7 and in the resolutions of said State, as approved on the  
8 fourth May, eighteen hundred and forty-seven, authority  
9 is hereby given to said State to make a common fund of  
10 all the school lands which shall be thus selected, or which  
11 shall have accrued to the State in virtue of existing laws,  
12 to be expended as the authorities of the State may direct,  
13 without reference to the particular township in which the  
14 lands shall be situated, and that any provision of any  
15 act of Congress heretofore passed, so far as the same re-  
16 lates to the State of Louisiana, and is inconsistent with  
17 the provisions of this act be, and the same is hereby, re-  
18 pealed.

Mr. Joshua R. Giddings  
 Daniel Gott  
 James S. Green  
 Artemas Hale  
 David Hammons  
 James G. Hampton  
 Moses Hampton  
 Hugh A. Haralson  
 John H. Harmanson  
 Samson W. Harris  
 William T. Haskell  
 Thomas J. Henley  
 Hugh L. W. Hill  
 John W. Hornbeck  
 George S. Houston  
 John W. Houston  
 Charles Hudson  
 Washington Hunt  
 Charles J. Ingersoll  
 Joseph R. Ingersoll  
 Alfred Iverson  
 David S. Jackson  
 Timothy Jenkins  
 James H. Johnson  
 Robert W. Johnson  
 David S. Kaufman  
 Thomas Butler King  
 Daniel P. King  
 Samuel Lahm  
 Emile La Sere

Mr. Shepherd Leffler  
 Lewis C. Levin  
 Thomas W. Ligon  
 Abraham Lincoln  
 Frederick W. Lord  
 William B. Maclay  
 James J. McKay  
 Robert M. McLane  
 Dudley Marvin  
 Richard K. Meade  
 John K. Miller  
 Charles S. Morehead  
 Jonathan D. Morris  
 Isaac E. Morse  
 Henry C. Murphy  
 Henry Nicoll  
 David Outlaw  
 John G. Palfrey  
 Charles H. Peaslee  
 Lucius B. Peck  
 George Petrie  
 John S. Phelps  
 James Pollock  
 William B. Preston  
 Harvey Putnam  
 R. Barnwell Rhett  
 John L. Robinson  
 William Rockhill  
 Julius Rockwell  
 John A. Rockwell

Mr. J. Dixon Roman  
 Robert L. Rose  
 David Rumsey, jr.  
 Daniel B. St. John  
 Robert C. Schenck  
 Augustine H. Shepperd  
 Eliakim Sherrill  
 Richard F. Simpson  
 John I. Slingerland  
 Ephraim K. Smart  
 George A. Starkweather  
 Andrew Stewart  
 John Strohm  
 Frederick A. Tallmadge  
 John L. Taylor  
 Jacob Thompson  
 Robert A. Thompson  
 Benjamin B. Thurston  
 Robert Toombs  
 Amos Tuck  
 John Van Dyke  
 Abraham W. Venable  
 Samuel F. Vinton  
 Cornelius Warren  
 John Wentworth  
 Hugh White  
 Hezekiah Williams  
 James S. Wiley  
 David Wilmot  
 Joseph A. Woodward.

Pending further proceedings upon the said resolution, and by unanimous consent of the House,

Mr. Hunt, from the joint committee appointed to wait on the President of the United States, and inform him that quorums of the two houses had assembled, and that Congress is ready to receive any communications he may be pleased to make, reported that the committee had waited on the President and discharged the duties for which it had been appointed, and that the President answered that he would make a communication in writing to the two houses to-day.

And thereupon,

A communication in writing was received from the President of the United States, by Mr. J. Knox Walker, his private secretary; which was read, and is as follows:

*Fellow-citizens of the Senate  
 and of the House of Representatives:*

The annual meeting of Congress is always an interesting event. The Representatives of the States and of the people come fresh from their constituents to take counsel together for the common good. After an existence of near three-fourths of a century as a free and independent republic, the problem no longer remains to be solved, whether man is capable of self-government. The success of our admirable system is a conclusive refutation of the theories of those in other countries who maintain that "a favored few" are born to rule, and that the mass of mankind must be governed by force. Subject to no arbitrary or hereditary authority, the people are the only sovereigns recognised by our constitution. Nu-

between the two countries. They may have supposed that we would submit to terms degrading to the nation; or they may have drawn false inferences from the supposed division of opinion in the United States on the subject of the war, and may have calculated to gain much by protracting it; and, indeed, that we might ultimately abandon it altogether, without insisting on any indemnity, territorial or otherwise. Whatever may be the false impressions under which they have acted, the adoption and prosecution of the energetic policy proposed must soon undeceive them.

In the future prosecution of the war, the enemy must be made to feel its pressure more than they have heretofore done. At its commencement, it was deemed proper to conduct it in a spirit of forbearance and liberality. With this end in view, early measures were adopted to conciliate, as far as a state of war would permit, the mass of the Mexican population; to convince them that the war was waged not against the peaceful inhabitants of Mexico, but against their faithless government, which had commenced hostilities; to remove from their minds the false impressions which their designing and interested rulers had artfully attempted to make, that the war on our part was one of conquest; that it was a war against their religion and their churches, which were to be desecrated and overthrown; and that their rights of person and private property would be violated. To remove these false impressions, our commanders in the field were directed scrupulously to respect their religion, their churches, and their church property, which were in no manner to be violated; they were directed also to respect the rights of persons and property of all who should not take up arms against us.

Assurances to this effect were given to the Mexican people by Major General Taylor, in a proclamation issued in pursuance of instructions from the Secretary of War, in the month of June, 1846, and again by Major General Scott, who acted upon his own convictions of the propriety of issuing it in a proclamation of the eleventh of May, 1847.

In this spirit of liberality and conciliation, and with a view to prevent the body of the Mexican population from taking up arms against us, the war conducted on our part. Provisions and other supplies furnished to our army by Mexican citizens were paid for at fair and liberal prices agreed upon by the parties. After the lapse of a few months, it became apparent that these assurances, and this mild treatment, had failed to produce the desired effect upon the Mexican population. While the war had been conducted on our part according to the most humane and liberal principles observed by civilized nations, it was waged in a far different spirit on the part of Mexico. Not appreciating our forbearance, the Mexican people generally became hostile to the United States, and availed themselves of every opportunity to commit the most savage excesses upon our troops. Large numbers of the population took up arms, and, engaging in guerilla warfare, robbed and murdered in the most cruel manner individual soldiers, or small parties, who, on accident or other causes had separated from the main body of our



army; bands of guerilleros and robbers infested the roads, harassed our trains, and, whenever it was in their power, cut off our supplies.

The Mexicans having thus shown themselves to be wholly incapable of appreciating our forbearance and liberality, it was deemed proper to change the manner of conducting the war, by making them feel its pressure according to the usages observed under similar circumstances by all other civilized nations.

Accordingly, as early as the twenty-second of September, 1846, instructions were given by the Secretary of War to Major General Taylor to "draw supplies" for our army "from the enemy, without paying for them, and to require contributions for its support, if in that way he was satisfied he could get abundant supplies for his forces." In directing the execution of these instructions, much was necessarily left to the discretion of the commanding officer, who was best acquainted with the circumstances by which he was surrounded, the wants of the army, and the practicability of enforcing the measure.

General Taylor, on the twenty-sixth of October, 1846, replied, from Monterey, that "it would have been impossible hitherto, and is so now, to sustain the army to any extent by forced contributions of money or supplies." For the reasons assigned by him, he did not adopt the policy of his instructions, but declared his readiness to do so, "should the army, in its future operations, reach a portion of the country which may be made to supply the troops with advantage." He continued to pay for the articles of supply which were drawn from the enemy's country.

Similar instructions were issued to Major General Scott on the third of April, 1847, who replied from Jalapa, on the twentieth of May, 1847, that if it be expected "that the army is to support itself by forced contributions levied upon the country, we may ruin and exasperate the inhabitants, and starve ourselves." The same discretion was given to him that had been to General Taylor in this respect. General Scott, for the reasons assigned by him, also continued to pay for the articles of supply for the army which were drawn from the enemy.

After the army had reached the heart of the most wealthy portion of Mexico, it was supposed that the obstacles which had before that time prevented it would not be such as to render impracticable the levy of forced contributions for its support; and on the first of September, and again on the sixth of October, 1847, the order was repeated in despatches addressed by the Secretary of War to General Scott, and his attention was again called to the importance of making the enemy bear the burdens of the war by requiring them to furnish the means of supporting our army; and he was directed to adopt this policy, unless, by doing so, there was danger of depriving the army of the necessary supplies. Copies of these despatches were forwarded to General Taylor for his government.

On the thirty-first of March last, I caused an order to be issued to our military and naval commanders to levy and collect a military contribution upon all vessels and merchandise which might enter any of the ports of Mexico in our military occupation, and

BY AUTHORITY OF CONGRESS.

---

THE

Statutes at Large and Treaties

OF THE

UNITED STATES OF AMERICA.

FROM

DECEMBER 1, 1845, TO MARCH 3, 1851,

Arranged in Chronological Order;

WITH

REFERENCES TO THE MATTER OF EACH ACT AND TO THE  
SUBSEQUENT ACTS ON THE SAME SUBJECT.

EDITED BY

GEORGE MINOT, ESQ.,

COUNSELLOR AT LAW.

The rights and interest of the United States in the stereotype plates from which this work is printed are hereby recognized, acknowledged, and declared by the publishers, according to the provisions of the joint resolution of Congress, passed March 3, 1845.

VOL. IX.

BOSTON:

LITTLE, BROWN AND COMPANY.

1862.

# PRIVATE ACTS OF THE THIRTIETH CONGRESS

OF THE

## UNITED STATES,

*Passed at the second Session, which was begun and held at the City of Washington, in the District of Columbia, on Monday the 4th Day of December, 1848, and ended Saturday, March 3, 1849.*

JAMES K. POLK, President; GEORGE M. DALLAS, Vice-President, and President of the Senate; DAVID R. ATCHISON, President of the Senate pro tempore on and after March 2, 1849; ROBERT C. WINTHROP, Speaker of the House of Representatives.

---

CHAPTER I. — *An Act for the Relief of the Heirs of Jean F. Perry, Josiah Bleakley, Nicholas Jarrot, and Robert Morrison.*

Dec. 21, 1848.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the register of the land office at Kaskaskia be required to issue certificates of confirmation on the several claims to lands confirmed to the said Jean F. Perry, Josiah Bleakley, Nicholas Jarrot, and Robert Morrison, by the governors of the north-western or Indiana Territories, upon those claims where such certificates have not heretofore issued, which certificates shall be issued to the heirs of the said persons, and shall not exceed in the whole four thousand six hundred acres of land.

Certificates of confirmation on certain land claims to be issued to J. F. Perry and others.

SEC. 2. *And be it further enacted,* That such certificates may be located in legal subdivisions upon any land subject to private entry in any land office in Illinois, established for the sale of the public lands agreeably to the provisions of the act entitled "An Act confirming certain claims to land in the Illinois Territory, and providing for their location," approved April sixteenth, eighteen hundred and fourteen, and patents shall be issued therefor agreeably to said act.

Where to be located.

1814, ch. 61.

Patents to issue.

APPROVED, December 21, 1848.

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CHAP. II. — *An Act for the Relief of Reuben Perry and Thomas P. Ligon.*

Jan. 8, 1849.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to ascertain the cost of the stone cornice upon the branch mint erected at Charlotte, in the State of North Carolina, under a contract made by the United States in October, eighteen hundred and thirty-five, with Reuben Perry and Thomas P. Ligon, and, if he shall find that the aforesaid stone cornice was substituted by proper authority, and was beneficial to the building, shall pay the said cost to the said Perry and Ligon in full compensation for said stone cornice.

The Secretary of the Treasury to ascertain the cost of the stone cornice on the branch mint at Charlotte, N. C.

Amount found due to be paid R. Perry and T. P. Ligon.

APPROVED, January 8, 1849.



Inconsistent acts repealed.

1819, ch. 23.

1825, ch. 97.

SEC. 5. *And be it further enacted*, That so much of the original act of incorporation, and of the act of the third of March, eighteen hundred and twenty-five, amendatory thereof, as is inconsistent with the provisions of the act, be, and the same is hereby, repealed.

APPROVED, March 2, 1849.

March 2, 1849.

CHAP. LXXXV.—*An Act granting a Half Section of Land for the Use of Schools within fractional Township Nineteen south, of Range Eighteen west, County of Lowndes, State of Mississippi.*

School commissioners within fractional township 19 south, of range 18 west, to select one half section of land.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the school commissioners, or other authority, having official cognizance over school lands within fractional township nineteen south, of range eighteen west, State of Mississippi, be, and they are hereby, authorized to select by legal subdivisions, from any of the public lands within the said State not otherwise appropriated, a quantity of land not exceeding one half section, for the use and support of schools within the said fractional township.

How lands so selected shall be held.

SEC. 2. *And be it further enacted*, That when the lands hereby authorized to be selected shall have been approved by the Secretary of the Treasury, they shall be held by the inhabitants of the township herein designated by the same tenure, and upon the same terms, for the support of schools in the said township, as if they had been selected under the provisions of the general school law of the twentieth of May, one thousand eight hundred and twenty-six: *Provided, nevertheless*, That the said commissioners, or other authority mentioned in the first section of this act, shall not be authorized, by any thing herein contained, to select lands out of the land district in which said fractional township is situated, if there be land within said district applicable to school purposes under the provisions of the act of May twentieth, eighteen hundred and twenty-six.

Proviso.

1826, ch. 83.

APPROVED, March 2, 1849.

March 2, 1849.

CHAP. XC.—*An Act for the Benefit of Peter M. Grant.*

Peter M. Grant authorized to return to the Commissioner of the General Land Office a land warrant for 160 acres of land, and to receive another warrant in lieu thereof.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Commissioner of the General Land Office, on Peter M. Grant's returning to that office land warrant No. thirty thousand and ninety-one, for one hundred and sixty acres of land, and furnishing satisfactory evidence that Jacob Phillips left no kin entitled by law to the said land warrant, in consideration of the services of the said Phillips, deceased, shall issue another land warrant to said Peter M. Grant, executor and devisee of said Jacob Phillips, deceased, for one hundred and sixty acres in lieu of said warrant so to be returned, and shall be *cancelled*.

APPROVED, March 2, 1849.

March 2, 1849.

CHAP. XCI.—*An Act for the Relief of Lizur B. Canfield.*

A pension of \$20 per month allowed Lizur B. Canfield.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the name of Lizur B. Canfield, a captain in the army of the United States during the war with Great Britain, be placed on the roll of invalid pensions, at the rate of twenty dollars a month, commencing the first day of January, eighteen hundred and forty-eight.

APPROVED, March 2, 1849.

the war," or five years, at the option of the recruit, unless sooner discharged.

Bounty to recruits.

SEC. 2. *And be it further enacted*, That there shall be allowed and paid to every able-bodied man who shall be duly enlisted to serve in the artillery or infantry for the term of five years, or during the war, a bounty of twelve dollars; but the payment of six dollars of the said bounty shall be deferred until the recruit shall have joined for duty the regiment in which he is to serve.

APPROVED, JANUARY 12, 1847.

Jan. 26, 1847.

CHAP. III. — *An Act declaring the Assent of Congress to certain States to impose a Tax upon all Lands hereafter sold by the United States therein, from and after the day of such Sale.*

States may tax the public lands after the day of sale.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the assent of Congress is hereby given to the several States admitted into the Union prior to the twenty-fourth day of April, in the year of our Lord one thousand eight hundred and twenty, to impose a tax or taxes upon all lands hereafter sold by the United States, in said States, from and after the day of such sale: *Provided*, That the assent hereby given shall in no wise impair that provision of the compact with the said States which declares that all lands belonging to citizens of the United States residing without the said States shall never be taxed higher than lands belonging to persons residing therein.

APPROVED, JANUARY 26, 1847.

Jan. 28, 1847.

CHAP. V. — *An Act authorizing the Issue of Treasury Notes, a Loan, and for other Purposes.*

\$23,000,000 of treasury notes authorized.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President of the United States is hereby authorized to cause treasury notes, for such sum or sums as the exigencies of the government may require, but not exceeding, in the whole amount of notes issued, the sum of twenty-three millions of dollars, and of denominations not less than fifty dollars for any one note, to be prepared, signed, and issued, in the manner hereinafter provided.

When to be paid.

Rate of interest.

Interest to cease sixty days after notice.

SEC. 2. *And be it further enacted*, That the said treasury notes authorized to be issued by the first section of this act, shall be reimbursed and redeemed by the United States, at the treasury thereof, after the expiration of one year or two years from the dates of the said notes respectively; from which said dates they shall bear such interest, until they shall be respectively redeemed, as shall be expressed upon the face of the said notes; which rate of interest upon each several issue of the said notes shall be fixed by the Secretary of the Treasury, by and with the advice and approbation of the President; but shall in no case exceed the rate of interest of six per centum per annum: *Provided*, That after the maturity of any of the said notes, such interest shall cease at the expiration of sixty days' notice, to be given at any time by the Secretary of the Treasury, in one or more of the principal papers published at the seat of government, of a readiness to redeem the same. The reimbursement herein provided for shall be made at the treasury of the United States to the holders of the said notes respectively, upon presentment, and shall include the principal of each note, and the interest which may be due thereon at the time of payment. For this reimbursement, at the time and times



SEC. 2. *And be it further enacted*, That if the Fifth Auditor shall report, in any of the cases herein provided for, that preliminary surveys are necessary to determine the site of a proposed lighthouse or light-boat, or to ascertain more fully what the public exigency demands, the Secretary of the Navy shall thereupon appoint one or more officers of the navy, possessing the requisite skill and experience, to perform the required service.

If the Fifth Auditor shall report that preliminary surveys are necessary, the Secretary of the Navy shall appoint an officer to perform the service required.

Duties of officers so appointed.

SEC. 3. *And be it further enacted*, That any officer so appointed shall forthwith enter upon the discharge of the duty, and, after fully ascertaining the facts, shall report, first, whether the proposed facility to navigation is the most suitable for the exigency which exists; and, second, where it should be placed if the interests of commerce demand it; third, if the thing proposed be not the most suitable, whether it is expedient to make any other kind of improvement; fourth, whether the proposed light has any connection with other lights, and if so, whether it cannot be so located as to subserve both the general and local wants of trade and navigation; and, fifth, whether there be any, and, if any, what other facts of importance touching the subject.

SEC. 4. *And be it further enacted*, That all such reports shall, as speedily as may be, be laid before the Secretary of the Treasury, and if such as to authorize the work without further legislation, he shall forthwith proceed with it; otherwise, such report shall be laid before Congress at the next ensuing session; but in all cases where the Fifth Auditor does not report such preliminary examination as expedient, the provisions of this act shall without delay be carried into execution.

Reports of such officers to be laid before Secretary of the Treasury, &c.

SEC. 5. *And be it further enacted*, That the sum of six thousand dollars be, and the same is hereby appropriated, out of any money in the treasury not otherwise appropriated, to purchase lenses, and to fit up, under the direction of the Secretary of the Treasury, a lighthouse to make trial of Mr. Isherwood's plan of discriminating one light from another, and of determining the distance of a vessel from a light, if the said Secretary shall be of opinion that the discovery merits such a trial of its value.

Appropriation for a lighthouse to make trial of Mr. Isherwood's discovery.

APPROVED, August 14, 1848.

CHAP. CLXXVII. — *An Act to establish the Territorial Government of Oregon.*

Aug. 14, 1848.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That from and after the passage of this act, all that part of the Territory of the United States which lies west of the summit of the Rocky Mountains, north of the forty-second degree of north latitude, known as the Territory of Oregon, shall be organized into and constitute a temporary government by the name of the Territory of Oregon: *Provided*, That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said Territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to affect the authority of the government of the United States to make any regulation respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent to the government to make if this act had never passed: *And provided, also*, That the title to the land, not exceeding six hundred and forty acres, now occupied as missionary stations among the Indian tribes in said Territory, together with the improvements thereon, be confirmed and established in the several religious societies to which said missionary stations respectively belong: *And provided further*, That nothing in this act contained shall be construed to inhibit the government of the United States from dividing

Temporary government for Territory of Oregon established.

Proviso as to Indians in said Territory.

Title to missionary stations confirmed.



Power to divide said Territory reserved.

The executive power to be vested in a governor; his tenure of office, powers, duties, and emoluments.

1850, ch. 16, § 3.

Secretary; his powers and duties.

In case of death, resignation, or removal of governor, the secretary to act as governor.

Legislative assembly to consist of a council and house of representatives. How composed.

Proviso.

Election of members of legislative council.

said Territory into two or more Territories, in such manner and at such times as Congress shall deem convenient and proper, or from attaching any portion of said Territory to any other State or Territory of the United States.

SEC. 2. *And be it further enacted*, That the executive power and authority in and over said Territory of Oregon shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States. The governor shall reside within said Territory, shall be commander-in-chief of the militia thereof, shall perform the duties and receive the emoluments of superintendent of Indian affairs; he may grant pardons and respites for offences against the laws of said Territory, and reprieves for offences against the laws of the United States, until the decision of the President can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of the said Territory, where, by law, such commissions shall be required, and shall take care that the laws be faithfully executed.

SEC. 3. *And be it further enacted*, That there shall be a secretary of said Territory, who shall reside therein, and hold his office for five years, unless sooner removed by the President of the United States; he shall record and preserve all the laws and proceedings of the legislative assembly hereinafter constituted, and all the acts and proceedings of the governor in his executive department; he shall transmit one copy of the laws and journals of the legislative assembly within thirty days after the end of each session, and one copy of the executive proceedings and official correspondence, semi-annually, on the first days of January and July in each year, to the President of the United States, and two copies of the laws to the President of the Senate and to the Speaker of the House of Representatives, for the use of Congress. And in case of the death, removal, resignation, or absence of the governor from the Territory, the secretary shall be, and he is hereby, authorized and required to execute and perform all the powers and duties of the governor during such vacancy or absence, or until another governor shall be duly appointed and qualified to fill such vacancy.

SEC. 4. *And be it further enacted*, That the legislative power and authority of said Territory shall be vested in a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The council shall consist of nine members, having the qualifications of voters as hereinafter prescribed, whose term of service shall continue three years. Immediately after they shall be assembled, in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the members of council of the first class shall be vacated at the expiration of the first year; of the second class at the expiration of the second year; and of the third class at the expiration of the third year, so that one third may be chosen every year; and if vacancies happen by resignation or otherwise, the same shall be filled at the next ensuing election. The house of representatives shall, at its first session, consist of eighteen members, possessing the same qualifications as prescribed for members of the council, and whose term of service shall continue one year. The number of representatives may be increased by the legislative assembly from time to time, in proportion to the increase of qualified voters: *Provided*, That the whole number shall never exceed thirty. An apportionment shall be made, as nearly equal as practicable, among the several counties or districts, for the election of the council and representatives, giving to each section of the Territory representation in the ratio of its qualified voters, as nearly as may be. And the members of the council and of the house of representatives shall reside in and

be inhabitants of the district, or county, or counties, for which they may be elected respectively. Previous to the first election, the governor shall cause a census or enumeration of the inhabitants and qualified voters of the several counties and districts of the Territory to be taken by such persons, and in such mode as the governor shall designate and appoint; and the persons so appointed shall receive a reasonable compensation therefor; and the first election shall be held at such time and places, and be conducted in such manner, both as to the persons who shall superintend such election, and the returns thereof, as the governor shall appoint and direct; and he shall, at the same time, declare the number of members of the council and house of representatives to which each of the counties or districts shall be entitled under this act; and the governor shall, by his proclamation, give at least sixty days' previous notice of such apportionment, and of the time, places, and manner of holding such election. The persons having the highest number of legal votes in each of said council districts for members of the council shall be declared by the governor to be duly elected to the council; and the persons having the highest number of legal votes for the house of representatives shall be declared by the governor to be duly elected members of said house: *Provided*, That, in case two or more persons voted for shall have an equal number of votes, and in case a vacancy shall otherwise occur in either branch of the legislative assembly, the governor shall order a new election; and the persons thus elected to the legislative assembly shall meet at such place, and on such day, within ninety days after such elections, as the governor shall appoint; but, thereafter, the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the council and house of representatives, according to the number of qualified voters, shall be prescribed by law, as well as the day of the commencement of the regular sessions of the legislative assembly: *Provided*, That no session in any one year shall exceed the term of sixty days, except the first session, which shall not be prolonged beyond one hundred days.

SEC. 5. *And be it further enacted*, That every white male inhabitant above the age of twenty-one years, who shall have been a resident of said Territory at the time of the passage of this act, and shall possess the qualifications hereinafter prescribed, shall be entitled to vote at the first election, and shall be eligible to any office within the said Territory; but the qualifications of voters and of holding office, at all subsequent elections, shall be such as shall be prescribed by the legislative assembly: *Provided*, That the right of suffrage and of holding office shall be exercised only by citizens of the United States above the age of twenty-one years, and those above that age who shall have declared, on oath, their intention to become such, and shall have taken an oath to support the constitution of the United States and the provisions of this act: *And provided further*, That no officer, soldier, seaman, or marine, or other person in the army or navy of the United States, or attached to troops in the service of the United States, shall be allowed to vote in said Territory, by reason of being on service therein, unless said Territory is and has been for the period of six months his permanent domicile: *Provided further*, That no person belonging to the army or navy of the United States shall ever be elected to or hold any civil office or appointment in said Territory.

SEC. 6. *And be it further enacted*, That the legislative power of the Territory shall extend to all rightful subjects of legislation not inconsistent with the constitution and laws of the United States; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor

Previous to first election, governor shall cause a census to be taken.

Time, place, and manner of holding elections.

Proviso for new elections.

Times, &c., of elections.

Term of sessions limited.

Qualifications of voters.

Proviso: right of suffrage and of holding office to be exercised only by citizens and those who shall have taken preliminary steps for naturalization.

No person belonging to the army or navy to vote in said Territory unless it has been his permanent domicile for six months, &c.

No person belonging to army or navy shall be elected to any civil office.

Extent of legislative power.



Proviso: nothing in this act shall be construed as giving power to charter a bank, or borrow money, or to grant the privilege of issuing and circulating notes, bills, &c., &c.

All such laws inconsistent with this act to be null and void.

All acts of legislative assembly shall embrace but one object.

Certain officers to be appointed in such manner as legislative assembly may prescribe.

Restrictions on members of legislative assembly as to appointments to office.

Judicial power, viz.:

Supreme Court.

District Courts.

Justices of the Peace.

Each District Court to appoint its clerk.

shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. All the laws passed by the legislative assembly shall be submitted to the Congress of the United States, and if disapproved, shall be null and of no effect: *Provided*, That nothing in this act shall be construed to give power to incorporate a bank, or any institution with banking powers, or to borrow money in the name of the Territory, or to pledge the faith of the people of the same for any loan whatever, either directly or indirectly. No charter granting any privilege of making, issuing, or putting into circulation any notes or bills in the likeness of bank notes, or any bonds, scrip, drafts, bills of exchange or obligations, or granting any other banking powers or privileges, shall be passed by the legislative assembly; nor shall the establishment of any branch or agency of any such corporation, derived from other authority, be allowed in said Territory; nor shall said legislative assembly authorize the issue of any obligation, scrip, or evidence of debt by said Territory, in any mode or manner whatever, except certificates for services to said Territory: and all such laws, or any law or laws inconsistent with the provisions of this act, shall be utterly null and void; and all taxes shall be equal and uniform, and no distinction shall be made in the assessments between different kinds of property, but the assessments shall be according to the value thereof. To avoid improper influences which may result from intermixing in one and the same act such things as have no proper relation to each other, every law shall embrace but one object, and that shall be expressed in the title.

SEC. 7. *And be it further enacted*, That all township, district, and county officers, not herein otherwise provided for, shall be appointed or elected in such manner as shall be provided by the legislative assembly of the Territory of Oregon.

SEC. 8. *And be it further enacted*, That no member of the legislative assembly shall hold, or be appointed to, any office which shall have been created, or the salary or emoluments of which shall have been increased, while he was a member, during the term for which he was elected, and for one year after the expiration of such term; but this restriction shall not be applicable to members of the first legislative assembly; and no person holding a commission or appointment under the United States shall be a member of the legislative assembly, or shall hold any office under the government of said Territory.

SEC. 9. *And be it further enacted*, That the judicial power of said Territory shall be vested in a Supreme Court, District Courts, Probate Courts, and in justices of the peace. The Supreme Court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said Territory annually, and they shall hold their offices during the period of four years, and until their successors shall be appointed and qualified. The said Territory shall be divided into three judicial districts, and a District Court shall be held in each of said districts by one of the justices of the Supreme Court, at such times and places as may be prescribed by law; and the said judges shall, after their appointments, respectively, reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the Probate Courts and of justices of the peace, shall be as limited by law: *Provided*, That justices of the peace shall not have jurisdiction of any case in which the title to land shall in any wise come in question, or where the debt or damages claimed shall exceed one hundred dollars; and the said Supreme and District Courts, respectively, shall possess chancery as well as common law jurisdiction. Each District Court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall



keep his office at the place where the court may be held. Writs of error, bills of exception, and appeals, shall be allowed in all cases from the final decisions of said District Courts to the Supreme Court, under such regulations as may be prescribed by law; but in no case removed to the Supreme Court shall trial by jury be allowed in said court. The Supreme Court, or the justices thereof, shall appoint its own clerk, and every clerk shall hold his office at the pleasure of the Court for which he shall have been appointed. Writs of error and appeals from the final decisions of said Supreme Court shall be allowed, and may be taken to the Supreme Court of the United States, in the same manner and under the same regulations as from the Circuit Courts of the United States, where the value of the property or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witness, shall exceed two thousand dollars, and in all cases where the constitution of the United States, or acts of Congress, or a treaty of the United States, is brought in question; and each of the said District Courts shall have and exercise the same jurisdiction in all cases arising under the constitution of the United States, and the laws of said Territory, as is vested in the Circuit and District Courts of the United States; writs of error and appeal in all such cases shall be made to the Supreme Court of said Territory, the same as in other cases. Writs of error and appeals from the final decisions of said Supreme Court shall be allowed, and may be taken to the Supreme Court of the United States, in the same manner as from the Circuit Courts of the United States, where the value of the property, or the amount in controversy, shall exceed two thousand dollars; and each of said District Courts shall have and exercise the same jurisdiction in all cases arising under the constitution and laws of the United States, as is vested in the Circuit and District Courts of the United States, and also of all cases arising under the laws of the said Territory, and otherwise. The said clerk shall receive, in all such cases, the same fees which the clerks of the District Courts of the late Wisconsin Territory received for similar services.

Sec. 10. *And be it further enacted*, That there shall be appointed an attorney for said Territory, who shall continue in office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President, and who shall receive the same fees and salary as were provided by law for the attorney of the United States for the late Territory of Wisconsin. There shall also be a marshal for the Territory appointed, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President, and who shall execute all processes issuing from the said courts, when exercising their jurisdiction as Circuit and District Courts of the United States; he shall perform the duties, be subject to the same regulation and penalties, and be entitled to the same fees, as were provided by law for the marshal of the District Court of the United States for the present [late] Territory of Wisconsin; and shall, in addition, be paid two hundred dollars annually as a compensation for extra services.

Sec. 11. *And be it further enacted*, That the governor, secretary, chief justice and associate justices, attorney, and marshal, shall be nominated, and, by and with the advice and consent of the Senate, appointed by the President of the United States. The governor and secretary, to be appointed as aforesaid, shall, before they act as such, respectively take an oath or affirmation, before the district judge, or some justice of the peace in the limits of said Territory, duly authorized to administer oaths and affirmations by the laws now in force therein, or before the chief justice or some associate justice of the Supreme Court of the United States, to support the constitution of the

Writs of error, &c., to be allowed from decisions of District Courts to Supreme Court.

Supreme Court to appoint its clerk.

Writs of error, &c., from decisions of Supreme Court to be allowed to Supreme Court of the United States.

Extent of jurisdiction of District Courts.

How writs of error and appeals are to be taken.

Jurisdiction of District Courts.

Fees of clerks.

Attorney.

His fees and salary.

Marshal.

His duties, &c.

Compensation.

Governor, secretary, chief and associate justices, attorney, and marshal to be appointed by the President, by and with the advice and consent of the Senate.

Each to take official oaths, &c.

United States, and faithfully to discharge the duties of their respective offices; which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken, and such certificates shall be received and recorded by the said secretary among the executive proceedings; and the chief justice and associate justices, and all other civil officers in said Territory, before they act as such, shall take a like oath or affirmation, before the said governor or secretary, or some judge or justice of the peace of the Territory, who may be duly commissioned and qualified; which said oath or affirmation shall be certified and transmitted by the person taking the same, to the secretary, to be by him recorded as aforesaid; and, afterwards, the like oath or affirmation shall be taken, certified, and recorded, in such manner and form as may be prescribed by law. The governor shall receive an annual salary of fifteen hundred dollars as governor, and fifteen hundred dollars as superintendent of Indian affairs. The chief justice and associate justices shall each receive an annual salary of two thousand dollars. The secretary shall receive an annual salary of fifteen hundred dollars. The said salaries shall be paid quarter-yearly, from the dates of the respective appointments, at the treasury of the United States; but no such payment shall be made until said officers shall have entered upon the duties of their respective appointments.

The members of the legislative assembly shall be entitled to receive three dollars each per day during their attendance at the session thereof, and three dollars each for every twenty miles' travel in going to and returning from said sessions, estimated according to the nearest usually travelled route. And a chief clerk, one assistant clerk, a sergeant-at-arms, and door-keeper, may be chosen for each house; and the chief clerk shall receive five dollars per day, and the said other officers three dollars per day, during the session of the legislative assembly; but no other officers shall be paid by the United States: *Provided*, That there shall be but one session of the legislature annually, unless, on an extraordinary occasion, the governor shall think proper to call the legislature together. There shall be appropriated annually the sum of fifteen hundred dollars, to be expended by the governor to defray the contingent expenses of the Territory, including the salary of a clerk of the executive department; and there shall also be appropriated, annually, a sufficient sum to be expended by the Secretary of the Territory, and upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses; and the governor and secretary of the Territory shall, in the disbursement of all moneys intrusted to them, be governed solely by the instructions of the Secretary of the Treasury of the United States, and shall semi-annually account to the said Secretary for the manner in which the aforesaid [sum] moneys shall have been expended; and no expenditure, to be paid out of money appropriated by Congress, shall be made by said legislative assembly for objects not specially authorized by the acts of Congress making the appropriations, nor beyond the sums thus appropriated for such objects.

**SEC. 12.** *And be it further enacted*, That the rivers and streams of water in said Territory of Oregon in which salmon are found, or to which they resort, shall not be obstructed by dams or otherwise, unless such dams or obstructions are so constructed as to allow salmon to pass freely up and down such rivers and streams.

**SEC. 13.** *And be it further enacted*, That the sum of ten thousand dollars be, and is hereby appropriated, to be expended under the direction of the President of the United States, in payment for the services and expenses of such persons as have been engaged by the provisional government of Oregon in conveying communications to and from the

Salary of governor &c.

Salary of secretary.

Compensation of members of legislative assembly.

Officers of legislative assembly.

Proviso as to sessions of legislature.

Provision for contingent expenses.

Salmon leaps not to be obstructed.

Appropriations for services and expenses of expresses, And for presents to Indians.



United States, and the purchase of presents for such of the Indian tribes as the peace and quietude of the country requires.

SEC. 14. *And be it further enacted*, That the inhabitants of said Territory shall be entitled to enjoy all and singular the rights, privileges, and advantages granted and secured to the people of the territory of the United States north-west of the River Ohio, by the articles of compact contained in the ordinance for the government of said territory, on the thirteenth day of July, seventeen hundred and eighty-seven; and shall be subject to all the conditions, and restrictions, and prohibitions in said articles of compact imposed upon the people of said territory; and the existing laws now in force in the Territory of Oregon, under the authority of the provisional government established by the people thereof, shall continue to be valid and operative therein, so far as the same be not incompatible with the constitution of the United States, and the principles and provisions of this act; subject, nevertheless, to be altered, modified, or repealed, by the legislative assembly of the said Territory of Oregon; but all laws heretofore passed in said Territory making grants of land, or otherwise affecting or incumbering the title to lands, shall be, and are hereby declared to be, null and void; and the laws of the United States are hereby extended over, and declared to be in force in, said Territory, so far as the same, or any provision thereof, may be applicable.

Ordinance of 1787 for government of north-west territory extended over said Territory of Oregon.

All grants of lands heretofore made in said Territory to be null and void.

SEC. 15. *And be it further enacted*, That the legislative assembly of the Territory of Oregon shall hold its first session at such time and place in said Territory as the governor thereof shall appoint and direct; and at said first session, or as soon thereafter as they shall deem expedient, the legislative assembly shall proceed to locate and establish the seat of government for said Territory at such place as they may deem eligible; which place, however, shall thereafter be subject to be changed by said legislative assembly. And the sum of five thousand dollars, out of any money in the treasury not otherwise appropriated, is hereby appropriated and granted to said Territory of Oregon, to be there applied, by the governor, to the erection of suitable buildings at the seat of government.

Time of holding sessions of legislative assembly and location of seat of government.

\$5000 appropriated for buildings, &c. 1850, ch. 19.

SEC. 16. *And be it further enacted*, That a delegate to the House of Representatives of the United States, to serve for the term of two years, who shall be a citizen of the United States, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as have been heretofore exercised and enjoyed by the delegates from the several other Territories of the United States to the said House of Representatives; but the delegate first elected shall hold his seat only during the term of the Congress to which he shall be elected. The first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct; of which, and the time, place, and manner of holding such elections, he shall give at least sixty days' notice by proclamation; and at all subsequent elections, the times, places, and manner of holding the elections shall be prescribed by law. The person having the greatest number of votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly. The delegate from said Territory shall not be entitled to receive more than twenty-five hundred dollars at any one session of Congress, as a compensation for his mileage, in going to and returning from the seat of government of the United States, any act of Congress to the contrary notwithstanding.

Delegate to House of Representatives of the United States to be elected.

Time of electing said delegate, &c.

His mileage.

SEC. 17. *And be it further enacted*, That all suits, process, and proceedings, civil and criminal, at law and in chancery, and all indictments and informations, which shall be pending and undetermined in the courts established by authority of the provisional government of

All suits, process, and proceedings, civil and criminal, indictments, &c.,



pending in the courts of the provisional government of Oregon, transferred to the District Courts of the United States for said Territory.

Proviso.

Justices of the peace, constables, sheriffs, &c., who shall be in office when this act shall take effect, continued in office till they or others are elected or appointed, &c., to fill their places.

Appropriation of \$5000 for a library.

Reservation of lands for use of schools.

Until otherwise provided for by law, the governor may define the judicial districts, and assign the judges to them, &c.; but the legislative assembly may organize, alter, or modify such judicial districts, &c.

Certain officers required to give security for moneys intrusted to them for disbursement.

Oregon, within the limits of said Territory, when this act shall take effect, shall be transferred to be heard, tried, prosecuted, and determined in the District Courts hereby established, which may include the counties or districts where any such proceeding may be pending. All bonds, recognizances, and obligations of every kind whatsoever, valid under the existing laws within the limits of said Territory, shall be valid under this act; and all crimes and misdemeanors against the laws in force within said limits may be prosecuted, tried, and punished in the courts established by this act; and all penalties, forfeitures, actions, and causes of action, may be recovered under this act, in like manner as they would have been under the laws in force within the limits composing said Territory at the time this act shall go into operation: *Provided*, That the laws, penalties, and forfeitures and punishments, by this section required to be enforced by the courts provided for by this act, shall not be inconsistent with the constitution of the United States: *And provided further*, That no right of action whatever shall accrue against any person for any act done in pursuance of any law heretofore passed by the temporary government, and which may be declared contrary to the constitution of the United States.

SEC. 18. *And be it further enacted*, That all justices of the peace, constables, sheriffs, and all other judicial and ministerial officers, who shall be in office within the limits of said Territory when this act shall take effect, shall be, and they are hereby, authorized and required to continue to exercise and perform the duties of their respective offices as officers of the Territory of Oregon until they or others shall be duly elected or appointed, and qualified to fill their places in the manner herein directed, or until their offices shall be abolished.

SEC. 19. *And be it further enacted*, That the sum of five thousand dollars be, and the same is hereby, appropriated out of any moneys in the treasury not otherwise appropriated, to be expended, by and under the direction of the said governor of the Territory of Oregon, in the purchase of a library, to be kept at the seat of government for the use of the governor, legislative assembly, judges of the Supreme Court, secretary, marshal, and attorney of said Territory, and such other persons, and under such regulations, as shall be prescribed by law.

SEC. 20. *And be it further enacted*, That when the lands in the said Territory shall be surveyed under the direction of the government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said Territory shall be, and the same is hereby, reserved for the purpose of being applied to schools in said Territory, and in the States and Territories hereafter to be erected out of the same.

SEC. 21. *And be it further enacted*, That, until otherwise provided for by law, the governor of said Territory may define the judicial districts of said Territory, and assign the judges who may be appointed for said Territory, to the several districts, and also appoint the times and places for holding courts in the several counties or subdivisions in each of said judicial districts by proclamation to be issued by him; but the legislative assembly, at their first or any subsequent session, may organize, alter, or modify such judicial districts, and assign the judges, and alter the time and places of holding the courts, as to them shall seem proper and convenient.

SEC. 22. *And be it further enacted*, That all officers to be appointed by the President, by and with the advice and consent of the Senate, for the Territory of Oregon, who by virtue of the provisions of any law now existing, or which may be enacted during the present Congress, are required to give security for moneys that may be intrusted with them for disbursement, shall give such security at such time and place, and in such manner, as the Secretary of the Treasury may prescribe.

SEC. 23. *And be it further enacted*, That all the ports, harbors, shores, and waters of the main land of the Territory aforesaid shall constitute a collection district, to be called the District of Oregon; and a port of entry shall be established at Astoria, near the mouth of the Columbia River, and a collector of customs shall be appointed by the President, by and with the advice and consent of the Senate, to reside at such port of entry.

Collection district of Oregon established, and collector to be appointed.

SEC. 24. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized to establish such ports of delivery in the district created by this act, not exceeding two in number, (one of which shall be located on *Fuget's Sound*,) as he may deem expedient, and may appoint, by and with the advice and consent of the Senate, surveyors to reside thereat.

Ports of delivery, and

Surveyors to be appointed.

SEC. 25. *And be it further enacted*, That the collector of said district shall be allowed a compensation of one thousand dollars per annum, and the fees allowed by law; and the compensation of any surveyor appointed in pursuance of this act shall not exceed five hundred dollars per annum, including in said sum the fees allowed by law; and the amount collected by any of said surveyors, for fees in any one year, exceeding the sum of five hundred dollars, shall be accounted for and paid into the treasury of the United States.

Compensation of collector and surveyors.

SEC. 26. *And be it further enacted*, That the revenue laws of the United States be, and are hereby, extended over the Territory of Oregon.

Revenue laws extended over said Territory.

SEC. 27. *And be it further enacted*, That the sum of fifteen thousand dollars be, and the same is hereby, appropriated out of any moneys in the treasury not otherwise appropriated, to be expended under the direction of the Secretary of the Treasury, for the construction of lighthouses at Cape Disappointment and New Dunginess; and for the construction and anchoring of the requisite number of buoys, to indicate the channels at the mouth of the Columbia River, and the approaches to the harbor of Astoria; the said buoys to be placed and anchored under the direction of such persons as the Secretary of the Treasury shall appoint.

Appropriation for lighthouses and buoys in Oregon.

APPROVED, August 14, 1848.

CHAP. CLXXVIII. — *An Act for the Payment of the Fourth Regiment in the Second Brigade of the Third Division of the Vermont Militia, for Services at the Battle of Plattsburg.* Aug. 14, 1848.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the proper accounting officers of the treasury be, and they are hereby, authorized and directed to adjust and settle the claims for one month's services of the officers and soldiers of the fourth regiment in the second brigade of the third division of the militia of the State of Vermont, who served at the battle of Plattsburg on the eleventh day of September, one thousand eight hundred and fourteen, for their military services on that occasion, and that the same be paid out of any money in the treasury not otherwise appropriated.

Claims of certain officers and soldiers of Vermont militia to be adjusted and settled.

APPROVED, August 14, 1848.

CHAP. CLXXIX. — *An Act for the Relief of the Widows and Orphans of the Officers, Seamen, and Marines of the Brig-of-War Somers.* Aug. 14, 1848.

WHEREAS the United States brig-of-war Somers was foundered at sea, in the offing of the harbor of Vera Cruz, while engaged, under very



the government, and who shall have power either to affirm, modify, or reverse the decisions of the register and receiver, and to authorize them to grant a certificate upon the cash payment to the receiver, of what may be determined to be a fair assessment on the lot confirmed; and upon such payment being made, and the return of the certificate to the general land office, a patent shall issue. And the said register and receiver shall each receive, from the proceeds of such sales, the sum of five dollars for every claim examined and adjudicated by them under this act.

Commissioner authorized to order vacant lots to be sold after public notice of two months.

SEC. 9. *And be it further enacted*, That it shall and may be lawful for the commissioner to order into market, after public notice of at least two months, all vacant lots, or lots to which a claim may be rejected, and to sell the same for cash to the highest bidder, subject to a minimum of two thirds of their estimated value; and upon such sales being made, and proper returns reported to the general land office, the commissioner, if the proceedings are found regular, shall be authorized to issue patents.

After adjudicating claims, and selling vacant lots, all moneys received, after deducting expenses, to be paid to the authorities of Sault Ste. Marie, to be expended in public improvements.

SEC. 10. *And be it further enacted*, That after all the claims shall have been adjudicated, surveyed, and the vacant lots sold, it shall be the duty of the proper accounting officers of the treasury to ascertain the net amount of sales, after deducting all expenses incident to the execution of this act, and such amount shall be paid over by the Secretary of the Treasury to the trustees, or other constituted authorities, of Salt Ste. Marie, to be expended by them in the improvements of the streets and erection of public buildings.

APPROVED, September 26, 1850.

Sept. 26, 1850.

CHAP. LXXII. — *An Act to reduce the minimum price of the Mineral Lands in the Lake Superior District in Michigan, and in the Chippewa District in Wisconsin.*

Mineral lands in Michigan and Wisconsin to be offered for sale as other public lands.

Parts of acts inconsistent repealed.

1847, ch. 32, and ch. 54.

Proviso.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the mineral lands in the Lake Superior district in Michigan, and in the Chippewa district in Wisconsin, shall be offered for public sale in the same manner, and be subject to the same minimum price, and the same rights of pre-emption as the other public lands of the United States; and such portions of the act of first March, eighteen hundred and forty-seven, "to establish a land office in the northern part of Michigan, and to provide for the sale of the mineral lands in the State of Michigan," and of the act of the third March, eighteen hundred and forty-seven, "to create an additional land district in the Territory of Wisconsin, and for other purposes," as are inconsistent with the provisions of this act, shall be, and the same are hereby, repealed: *Provided, however*, That the right given by those acts of first and third March, eighteen hundred and forty-seven, to lessees, occupants, and permittees, to enter to the extent of their leases and permits, and no less; shall not be considered as impaired by this act; but said lessees, occupants, and permittees shall be authorized to enter the land covered by their leases, occupancy, and permits, respectively, as therein provided, at the minimum price fixed by this act.

Holder of a lease for more than one section entitled on surrender of said lease to purchase one full section at the minimum price.

SEC. 2. *And be it further enacted*, That the holder of a lease or permit covering more than one full section of the mineral lands, as aforesaid, shall be entitled, on the surrender and annulment of said lease or permit at the proper land-office, to purchase, if he shall elect to do so, one full section, and no more, of the land covered by said lease or permit, at a minimum price of two dollars and fifty cents per acre.

APPROVED, September 26, 1850.



Oregon.

*Oregon.* — From Astoria, via mouth of the Conlitz River, Plymouth, Portland, Milwaukie, Oregon City, Linn City, Lafayette, Nathaniel Ford's, Nesmith's Mills, Marysville, John Lloyd's, Eugene F. Skinner's, Pleasant Hill, to the mouth of the Umpqua River.

From the Umpqua Valley to Sacramento City, in California.

From Oregon City, via Champoy, Salem, Hamilton, Campbell's, Albany, Kirk's Ferry, W. B. Malay's, to Jacob Spore's, in Linn county.

From Nesqually, via Conlitz Settlement, to the mouth of the Conlitz River.

From Portland, via Vancouver, to the Dalles of the Columbia River.

From Portland to Hillsborough.

From Oregon City to Harrison Wright's, on Mollola.

From Hamilton Campbell's to Jacob Conser's, in Santyam Forks.

From Linn City to Hillsboro.

From Santa Fe to Socorro.

From Socorro to Frontera.

From Las Vegas to Santa Fe.

From Santa Fe, via Abicin, to Taos.

From Santa Fe to Salt Lake City.

Utah.

*Utah.* — From Great Salt Lake to Sampete, via Utah Lake.

From Great Salt Lake City to Brownsville.

From Great Salt Lake City, to Utah Lake, and thence to Sand Pitch Valley.

Third section of the act of 1848, ch. 175, extended to territories of Utah and New Mexico.

Rates of postage.

SEC. 2. *And be it further enacted*, That the third section of the act of August fourteenth, eighteen hundred and forty-eight, entitled "An Act to establish certain post-routes," be extended to the Territories of Utah and New Mexico, and that the postmaster-general be authorized to establish such rates of postage in said Territories as to him may seem proper, not exceeding those authorized in said act.

APPROVED, September 27, 1850.

Sept. 27, 1850.  
1853, ch. 69.

CHAP. LXXVI. — *An Act to create the Office of Surveyor-General of the Public Lands in Oregon, and to provide for the Survey, and to make Donations to Settlers of the said Public Lands.*

Surveyor-general of Oregon: his authority and duties.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That a surveyor-general shall be appointed for the Territory of Oregon, who shall have the same authority, perform the same duties respecting the public lands and private land claims in the Territory of Oregon, as are vested in and required of the surveyor of lands in the United States northwest of the Ohio, except as hereinafter provided.

Salary and place of office.

SEC. 2. *And be it further enacted*, That the said surveyor-general shall establish his office at such place within the said Territory as the President of the United States may from time to time direct; he shall be allowed an annual salary of two thousand five hundred dollars, to be paid quarter-yearly, and to commence at such time as he shall enter into bond, with competent security, for the faithful discharge of the duties of his office. There shall be, and hereby is, appropriated the sum of four thousand dollars, or as much thereof as is necessary for clerk hire in his office; and the further sum of one thousand dollars per annum for office rent, fuel, books, stationery, and other incidental expenses of his office, to be paid out of the appropriation for surveying the public lands.

Bond.  
Appropriation for clerk hire.

Incidental expenses.

Manner of making surveys.

SEC. 3. *And be it further enacted*, That if, in the opinion of the Secretary of the Interior, it be preferable, the surveys in said Territory shall be made after what is known as the geodetic method, under such regulations, and upon such terms, as may be provided by the Sec-

retary of the Interior or other Department having charge of the surveys of the public lands, and that said geodetic surveys shall be followed by topographical surveys, as Congress may from time to time authorize and direct; but if the present mode of survey be adhered to, then it shall be the duty of said surveyor to cause a base line, and meridian to be surveyed, marked, and established, in the usual manner, at or near the mouth of the Willamette River; and he shall also cause to be surveyed, in townships and sections, in the usual manner, and in accordance with the laws of the United States, which may be in force, the district of country lying between the summit of the Cascade Mountains and the Pacific Ocean, and south and north of the Columbia River: *Provided, however,* That none other than township lines shall be run where the land is deemed unfit for cultivation. That no deputy surveyor shall charge for any line except such as may be actually run and marked, nor for any line not necessary to be run; and that the whole cost of surveying shall not exceed the rate of eight dollars per mile, for every mile and part of mile actually surveyed and marked.

Proviso.

SEC. 4. *And be it further enacted,* That there shall be, and hereby is, granted to every white settler or occupant of the public lands, American half-breed Indians included, above the age of eighteen years, being a citizen of the United States, or having made a declaration according to law, of his intention to become a citizen, or who shall make such declaration on or before the first day of December, eighteen hundred and fifty-one, now residing in said Territory, or who shall become a resident thereof on or before the first day of December, eighteen hundred and fifty, and who shall have resided upon and cultivated the same for four consecutive years, and shall otherwise conform to the provisions of this act, the quantity of one half section, or three hundred and twenty acres of land, if a single man, and if a married man, or if he shall become married within one year from the first day of December, eighteen hundred and fifty, the quantity of one section, or six hundred and forty acres, one half to himself and the other half to his wife, to be held by her in her own right; and the surveyor-general shall designate the part enuring to the husband and that to the wife, and enter the same on the records of his office; and in all cases where such married persons have complied with the provisions of this act, so as to entitle them to the grant as above provided, whether under the late provisional government of Oregon, or since, and either shall have died before patent issues, the survivor and children or heirs of the deceased shall be entitled to the share or interest of the deceased in equal proportions, except where the deceased shall otherwise dispose of it by testament duly and properly executed according to the laws of Oregon: *Provided,* That no alien shall be entitled to a patent to land, granted by this act, until he shall produce to the surveyor-general of Oregon, record evidence that his naturalization as a citizen of the United States has been completed; but if any alien, having made his declaration of intention to become a citizen of the United States, after the passage of this act, shall die before his naturalization shall be completed, the possessory right acquired by him under the provisions of this act shall descend to his heirs at law, or pass to his devisees, to whom, as the case may be, the patent shall issue: *Provided, further,* That in all cases provided for in this section, the donation shall embrace the land actually occupied and cultivated by the settler thereon: *Provided, further,* That all future contracts by any person or persons entitled to the benefit of this act, for the sale of the land to which he or they may be entitled under this act before he or they have received a patent therefor, shall be void: *Provided, further, however,* That this section shall not be so construed as to allow those claiming rights

Grant of public lands to every white settler above 18 years of age, who is a citizen of the U. S., or who has declared his intention, or shall declare it before Dec. 1, 1850.

Half a section to a single man, and a whole section to a married man.

When married persons have complied with the provisions of this act, and either shall have died before the patent issues, the survivor and children or heirs of the deceased entitled to his or her share, in equal proportions.

Proviso.

Further proviso.

Further proviso.

Further proviso.

under the treaty with Great Britain relative to the Oregon Territory, to claim both under this grant and the treaty, but merely to secure them the election, and confine them to a single grant of land.

Grants of land to white persons emigrating to Oregon between Dec. 1, 1850, and Dec. 1, 1853.

SEC. 5. *And be it further enacted*, That to all white male citizens of the United States, or persons who shall have made a declaration of intention to become such, above the age of twenty-one years, emigrating to and settling in said Territory between the first day of December, eighteen hundred and fifty, and the first day of December, eighteen hundred and fifty-three; and to all white male American citizens, not hereinbefore provided for, becoming one and twenty years of age, in said Territory, and settling there between the times last aforesaid, who shall in other respects comply with the foregoing section and the provisions of this law, there shall be, and hereby is, granted the quantity of one quarter section, or one hundred and sixty acres of land, if a single man; or if married, or if he shall become married within one year from the time of arriving in said Territory, or within one year after becoming twenty-one years of age as aforesaid, then the quantity of one half section, or three hundred and twenty acres, one half to the husband and the other half to the wife in her own right, to be designated by the surveyor-general as aforesaid: *Provided always*, That no person shall ever receive a patent for more than one donation of land in said Territory in his or her own right: *Provided*, That no mineral lands shall be located or granted under the provisions of this act.

Proviso.

Within three months after the survey has been made, or where the survey has been made before the settlement commenced, then within three months from the commencement of such settlement, each of said settlers shall notify the surveyor-general, to be appointed under this act, of the precise tract or tracts claimed by them respectively under this law, and in all cases it shall be in a compact form; and where it is practicable so to do, the land so claimed shall be taken as nearly as practicable by legal subdivisions; but where that cannot be done, it shall be the duty of the said surveyor-general to survey and mark each claim with the boundaries as claimed, at the request and expense of the claimant; the charge for the same in such case not to exceed the price paid for surveying the public lands. The surveyor-general shall enter a description of such claims in a book to be kept by him for that purpose, and note, temporarily, on the township plats, the tract or tracts so designated, with the boundaries; and whenever a conflict of boundaries shall arise prior to issuing the patent, the same shall be determined by the surveyor-general: *Provided*, That after the first December next, all claims shall be bounded by lines running east and west, and north and south: *And provided, further*, That after the survey is made, all claims shall be made in conformity to the same, and in compact form.

Surveyor-general to keep a book in which to note the tracts designated, and to settle disputed boundaries.

Proviso.

Further proviso.

Within twelve months after survey, or settlement, all persons claiming land to prove to the surveyor-general that cultivation, etc., has been commenced.

Four years' residence to be proved, before patents for the land shall be granted.

SEC. 6. *And be it further enacted*, That within twelve months after the surveys have been made, or, where the survey has been made before the settlement, then within twelve months from the time the settlement was commenced, each person claiming a donation right under this act shall prove to the satisfaction of the surveyor-general, or of such other officer as may be appointed by law for that purpose, that the settlement and cultivation required by this act had been commenced, specifying the time of the commencement; and at any time after the expiration of four years from the date of such settlement, whether made under the laws of the late provisional government or not, shall prove in like manner, by two disinterested witnesses, the fact of continued residence and cultivation required by the fourth section of this act; and upon such proof being made, the surveyor-general, or other officer appointed by law for that purpose, shall issue certificates under such rules and

SEC. 7. *And be it further enacted*, That within twelve months after the surveys have been made, or, where the survey has been made before the settlement, then within twelve months from the time the settlement was commenced, each person claiming a donation right under this act shall prove to the satisfaction of the surveyor-general, or of such other officer as may be appointed by law for that purpose, that the settlement and cultivation required by this act had been commenced, specifying the time of the commencement; and at any time after the expiration of four years from the date of such settlement, whether made under the laws of the late provisional government or not, shall prove in like manner, by two disinterested witnesses, the fact of continued residence and cultivation required by the fourth section of this act; and upon such proof being made, the surveyor-general, or other officer appointed by law for that purpose, shall issue certificates under such rules and



regulations as may be prescribed by the commissioner of the general land office, setting forth the facts in the case, and specifying the land to which the parties are entitled. And the said surveyor-general shall return the proof so taken to the office of the commissioner of the general land office, and if the said commissioner shall find no valid objection thereto, patents shall issue for the land according to the certificates aforesaid, upon the surrender thereof.

Patent to issue.

SEC. 8. *And be it further enacted*, That upon the death of any settler before the expiration of the four years' continued possession required by this act, all the rights of the deceased under this act shall descend to the heirs at law of such settler, including the widow, where one is left, in equal parts; and proof of compliance with the conditions of this act up to the time of the death of such settler shall be sufficient to entitle them to the patent.

If any settler dies before expiration of four years, his rights are guaranteed to his heirs at law.

SEC. 9. *And be it further enacted*, That no claim to a donation right under the provisions of this act, upon sections sixteen or thirty-six, shall be valid or allowed, if the residence and cultivation upon which the same is founded shall have commenced after the survey of the same; nor shall such claim attach to any tract or parcel of land selected for a military post, or within one mile thereof, or to any other land reserved for governmental purposes, unless the residence and cultivation thereof shall have commenced previous to the selection or reservation of the same for such purposes.

No claim to donations upon sections sixteen or thirty-six to be valid if the residence was commenced after the survey of the same.

SEC. 10. *And be it further enacted*, That there be, and hereby is, granted to the Territory of Oregon the quantity of two townships of land in said Territory, west of the Cascade Mountains, and to be selected in legal subdivisions after the same has been surveyed, by the legislative assembly of said Territory, in such manner as it may deem proper, one to be located north, and the other south, of the Columbia River, to aid in the establishment of a university in the Territory of Oregon, in such manner as the said legislative assembly may direct, the selection to be approved by the surveyor-general.

Grants to Oregon for a university.

SEC. 11. *And be it further enacted*, That what is known as the "Oregon city claim," excepting the Abernethy Island, which is hereby confirmed to the legal assigns of the Willamette Milling and Trading Companies, shall be set apart and be at the disposal of the legislative assembly, the proceeds thereof to be applied by said legislative assembly to the establishment and endowment of a university, to be located at such place in the Territory as the legislative assembly may designate: *Provided, however*, That all lots and parts of lots in said claim, sold or granted by Doctor John McLaughlin, previous to the fourth day of March, eighteen hundred and forty-nine, shall be confirmed to the purchaser or donee, or their assigns, to be certified to the commissioner of the general land office, by the surveyor-general, and patents to issue on said certificates, as in other cases: *Provided, further*, That nothing in this act contained shall be so construed or executed, as in any way to destroy or affect any rights to land in said Territory, holden or claimed under the provisions of the treaty or treaties existing between this country and Great Britain.

Further grant for same. "Oregon city claim."

Proviso.

Further proviso.

SEC. 12. *And be it further enacted*, That all persons claiming land under any of the provisions of this act, by virtue of settlement and cultivation commenced subsequent to the first of December, in the year eighteen hundred and fifty, shall first make affidavit before the surveyor-general, who is hereby authorized to administer all such oaths or affirmations, or before some other competent officer, that the land claimed by them is for their own use and cultivation; that they are not acting directly or indirectly as agent for, or in the employment of others, in making such claims; and that they have made no sale or transfer, or any arrangement or agreement for any sale, transfer, or aliena-

Persons claiming land to make oath that the land claimed is for their own use and cultivation.

Punishment of perjury. tion of the same, or by which the said land shall enure to the benefit of any other person. And all affidavits required by this act shall be entered of record, by the surveyor-general, in a book to be kept by him for that purpose; and on proof, before a court of competent jurisdiction, that any of such oaths or affirmations are false or fraudulent, the persons making such false or fraudulent oaths or affirmations shall be subject to all the pains and penalties of perjury.

Surveyor-general authorized to make preliminary adjudications of questions arising under this act. SEC. 13. *And be it further enacted*, That all questions arising under this act shall be adjudged by the surveyor-general as preliminary to a final decision according to law; and it shall be the duty of the surveyor-general, under the direction of the commissioner of the general land office, to cause proper tract books to be opened for the lands in Oregon, and to do and perform all other acts and things necessary and proper to carry out the provisions of this act.

Reservation of mineral and other lands. SEC. 14. *And be it further enacted*, That no mineral lands, nor lands reserved for salines, shall be liable to any claim under and by virtue of the provisions of this act; and that such portions of the public lands as may be designated under the authority of the President of the United States, for forts, magazines, arsenals, dock-yards, and other needful public uses, shall be reserved and excepted from the operation of this act: *Provided*, That if it shall be deemed necessary, in the judgment of the President, to include in any such reservation the improvements of any settler made previous to the passage of this act, it shall in such case be the duty of the Secretary of War to cause the value of such improvements to be ascertained, and the amount so ascertained shall be paid to the party entitled thereto, out of any money not otherwise appropriated.

Proviso.

APPROVED, September 27, 1850.

Sept. 28, 1850. CHAP. LXXVII. — *An Act making Appropriations for Lighthouses, Light-Boats, Buoys, &c., and providing for the Erection and Establishment of the same, and for other Purposes.*

Appropriation. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following appropriations be, and the same are hereby, made, and directed to be paid, out of any money in the treasury not otherwise appropriated, to enable the Secretary of the Treasury to carry the provisions of this act into effect: *Provided, however*, If a good title to any land, which it may be necessary to use, cannot be obtained on reasonable terms, or the exclusive right to such land cannot be acquired by cession, when the interest of the United States demands it, before the appropriation would by law fall into the surplus fund, in any and all such cases, the appropriations shall be applicable to the objects for which they are made, at any time within two years after the first meeting of the legislature, in any State wherein such land may be situated, subsequent to the passage of this act, to wit:

Maine. Boon Island. *In Maine.* — For a buoy on a ledge about one league east of Boon Island, one hundred and fifty dollars.

Drunken and Fidler's Ledges. For dumb beacons on Drunken and Fidler's Ledges, at the mouth of the thoroughfare between Northhaven and Vinalhaven, one thousand dollars.

Black Saddleback Island. For a lighthouse on Black Saddleback Island, in the county of Hancock, four thousand dollars.

N. Hampshire. Little Harbor. *In New Hampshire.* — For a beacon and buoys at the mouth of Little Harbor, near Portsmouth, two thousand five hundred dollars.

Logy's ledge. For a beacon on Logy's Ledge, in Piscataqua River, five hundred dollars.



*Lands, Public, (continued.)*

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BY AUTHORITY OF CONGRESS.

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THE

Statutes at Large and Treaties

OF THE

UNITED STATES OF AMERICA.

FROM

DECEMBER 1, 1851, TO MARCH 3, 1855,

Arranged in Chronological Order;

WITH

REFERENCES TO THE MATTER OF EACH ACT AND TO THE  
SUBSEQUENT ACTS ON THE SAME SUBJECT.

EDITED BY

GEORGE MINOT, ESQ.,

COUNSELLOR AT LAW.

The rights and interest of the United States in the stereotype plates from which this work is printed are hereby recognised, acknowledged, and declared by the publishers, according to the provisions of the joint resolution of Congress, passed March 3, 1845.

VOL. X.

BOSTON:

LITTLE, BROWN AND COMPANY.

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1855.

Feb. 14, 1853.

1850, ch. 76.

CHAP. LXIX.—*An Act to amend an act entitled "An Act to create the Office of Surveyor-General of the Public Lands in Oregon, and to provide for the Survey, and to make Donations to the Settlers of the said Public Lands," approved September twenty-seventh, eighteen hundred and fifty.*

Payment may be substituted by settlers in Oregon for the continued occupation required by act of 1850, ch. 76.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That all persons who have located or may hereafter locate lands in the Territory of Oregon, in accordance with the provisions of an act entitled "An act to create the office of Surveyor-General of the Public Lands in Oregon, and to provide for the Survey, and to make Donations to the Settlers of the said Public Lands," approved September twenty-seven, eighteen hundred and fifty, and of which survey shall have been made or may hereafter be had, in lieu of the term of continued occupation after settlement, as provided by said act, shall be permitted, after occupation for two years of the land so claimed, to pay into the hands of the Surveyor-General of said Territory at the rate of one dollar and twenty-five cents per acre for the lands so claimed, located, and surveyed as aforesaid; and upon the death of any settler before the expiration of the two years' continued possession required by this act, all the rights of the deceased under this act shall descend to the heirs at law of such settler, including the widow, where one is left, in equal parts; and proof of compliance with the conditions of this act, up to the time of the death of such settler, shall be sufficient to entitle them to the patent.

Patents to issue.

SEC. 2. *And be it further enacted,* That upon the payment of money for lands as aforesaid to the said Surveyor-General, he shall issue his certificate of such payment, together with an accurate copy of the survey of the land so located, and purchased, to the purchaser thereof, and upon the filing of which said certificate and copy of survey in the office of the Commissioner of the General Land Office, a patent shall issue therefor as in other cases.

Record of such payments to be made, and accounts rendered.

SEC. 3. *And be it further enacted,* That it shall be the duty of the said Surveyor-General to keep and preserve a record of all moneys so received, and to make out and transmit quarterly, to the Commissioner of the General Land Office, an accurate report of the moneys so received by him as aforesaid.

Surveyor-General of Oregon to give bond.

SEC. 4. *And be it further enacted,* That it shall be the duty of the said Surveyor-General, immediately upon the taking effect of this act, to enter into security in the sum of fifty thousand dollars, conditioned for the safe-keeping of all moneys received by him as Surveyor-General, according to law: *Provided, however,* That in order to compensate the Surveyor-General of said Territory for the additional labors and responsibility imposed upon him by this act, in receiving, safe-keeping, paying over, and accounting for the moneys aforesaid, he shall receive two per centum on all such sums which shall include the payment for clerk hire, together with all costs and expenses incidental to such special services in any one year: *Provided,* The salary and per centage of said Surveyor-General, and for clerk hire, shall not exceed four thousand dollars for any one year.

Provisos.

His compensation increased by a per centage on such payments.

Limits of compensation.

Act of 1850, ch. 76, extended to Dec. 1, 1855.

SEC. 5. *And be it further enacted,* That the provisions of the act to which this is an amendment be and the same are hereby extended and continued in force until the first day of December, eighteen hundred and fifty-five.

Notice to be given to entitle settlers in Oregon to the benefit of the act of 1850, ch. 76, sec. 4.

SEC. 6. *And be it further enacted,* That every person entitled to the benefit of the fourth section of the act of which this is amendatory, who was resident in said Territory on or prior to the first of December, eighteen hundred and fifty, shall be and hereby is required to file with the Surveyor-General of said Territory, in advance of the time when the public surveys shall be extended over the particular land claimed by him, where those surveys shall not have been made previous to the date

of this act, a notice in writing, setting forth his claim to the benefits of said section, and citing all required particulars in reference to such settlement claim; and all persons failing to give such notice on or prior to the first of December, eighteen hundred and fifty-three, shall be thereafter debarred from ever receiving any benefit under said fourth section. And all persons who, on the first December, eighteen hundred and fifty-three, shall have settled on surveyed lands in said Territory, in virtue of the provisions of the fifth section of the act of which this is amendatory, who shall fail to give notice in writing of such settlement, specifying the particulars thereof to the Surveyor-General of said Territory, on or prior to the first of April, eighteen hundred and fifty-five, shall be thereafter debarred from ever receiving the benefits of said fifth section.

SEC. 7. *And be it further enacted*, That from and after the first of April, eighteen hundred and fifty-five, all public lands within the limits of the townships surveyed or to be surveyed in said Territory, west of the Cascade mountains, which shall not have been claimed under the provisions of the fourth and fifth sections of the act of which this is amendatory, or reserved for public uses by law, or order of the President, and excepting also mineral lands, shall be subject to public sale and private entry as other public lands of the United States; and so soon as he shall deem expedient, the President of the United States shall, by and with the advice and consent of the Senate, appoint a receiver of public moneys for the Territory of Oregon, west of the Cascade mountains, who shall give bond and security, in the penalty of fifty thousand dollars, for the faithful discharge of his official trust, and whose duties, under the laws in relation to the public lands of the United States in said Territory, shall be the same as those of other like officers of the United States, and who shall be allowed not exceeding five hundred dollars per annum for the safe-keeping and accounting for the public moneys by him received, including all charges for office rent and clerk hire; and at such time as the President of the United States shall deem it expedient, he shall appoint, by and with the advice and consent of the Senate, a Register of the land office for the Territory of Oregon, west of the Cascade mountains, who shall enter into bond, with sufficient security, for the faithful discharge of his official duties, as other like officers, and whose duties and authority, under the direction of the Secretary of the Interior, shall be the same as those imposed by law on other like officers, consistently with the provisions of this act and of the act of which this is amendatory, and whose compensation shall be equal to that allowed to the Receiver of Public Moneys to be appointed under this act; and until such Register shall have been appointed, and entered upon the discharge of his official duties, the Surveyor-General of Oregon shall perform all the duties which shall appertain to such office.

Sale of the lands in Oregon west of the Cascade mountains.

Receiver to be appointed. His pay and duties.

Register to be appointed. His pay and duties.

Until a register is appointed, the Surveyor-General to perform his duties.

SEC. 8. *And be it further enacted*, That each widow now residing in Oregon Territory, and such others as shall locate in said Territory, whose husband, had he lived, would have been entitled to a claim under the provisions of the act to which this is an amendment, shall be entitled, under the provisions and requirements of said act, to the same quantity of land that she would have been but for the death of her husband; and that in case of the death of the widow prior to the expiration of the four years' continued possession required by said act, to which this is an amendment, all the rights of the deceased shall inure unto and be vested in the heirs at law of such widow.

Rights of widows and heirs of settlers in Oregon under act of 1850, ch. 76.

SEC. 9. *And be it further enacted*, That all reservations heretofore, as well as hereafter, made in pursuance of the fourteenth section of the act to which this is an amendment, shall, for magazines, arsenals, dockyards, and other needful public uses, except for forts, be limited to an amount not exceeding twenty acres for each and every of said objects at any one point or place, and for forts to an amount not exceeding six

Limit of amount of reservations made or to be made under act of 1850, ch. 76, sec. 14.



Provision for compensation when land of a settler is included within a reservation.

Surveyor-General in Oregon made subject to act of 1848, ch. 90.

hundred and forty acres at any one point or place: *Provided*, That if it shall be deemed necessary, in the judgment of the President, to include in any such reservation the improvement of any settler made previous to such reservation, it shall, in such case, be the duty of the Secretary of War to cause the value of such improvements to be ascertained; and the amount so ascertained shall be paid to the party entitled thereto, out of any money in the Treasury not otherwise appropriated.

SEC. 10. *And be it further enacted*, That the said Surveyor-General, in the discharge of his duties under this act, shall be subject to all the provisions of the act entitled "An act to provide for the better organization of the Treasury, and for the collection, safe-keeping, transfer, and disbursement of the public revenue," approved August sixth, eighteen hundred and forty-six; and all acts and parts of acts in conflict with the provisions of this act be and the same are hereby repealed.

APPROVED, February 14, 1853.

Feb. 16, 1853.

CHAP. LXXVI. — *An Act to prevent in certain cases a failure or delay of Justice in the Courts of the District of Columbia.*

Where a case has been commenced before the jury, it may be proceeded with, notwithstanding the intervention of another term.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That where, at any term of the Circuit or Criminal Court of the District of Columbia, a jury shall be empannelled to try any cause or any issue or issues joined in any cause, and it shall happen that no verdict shall be found, nor the jury otherwise discharged before the day appointed by law for the commencement of the next succeeding term, the Court shall and may, nevertheless, proceed with the trial by the same jury in every respect as if such term had not commenced; and all subsequent proceedings to final judgment, if such judgment shall be rendered, shall be entered and have legal effect and operation as of the term at which the jury shall have been empannelled, any law or usage to the contrary notwithstanding.

APPROVED, February 16, 1853.

Feb. 21, 1853.

CHAP. LXXIX. — *An Act Amendatory of Existing Laws relative to the Half Dollar, Quarter Dollar, Dime, and Half Dime. (a)*

1853 ch. 96 § 7.

Weight of the half dollar and quarter, dime and half dime, after June 1, 1853.

Such coins when to be a legal tender.

Purchase of the silver bullion for such coinage.

Such coins, how to be exchanged and paid out of mint.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That from and after the first day of June, eighteen hundred and fifty-two, [three] the weight of the half dollar or piece of fifty cents shall be one hundred and ninety-two grains, and the quarter dollar, dime, and half dime, shall be, respectively, one half, one fifth, and one tenth of the weight of said half dollar.

SEC. 2. *And be it further enacted*, That the silver coins issued in conformity with the above section, shall be legal tenders in payment of debts for all sums not exceeding five dollars.

SEC. 3. *And be it further enacted*, That in order to procure bullion for the requisite coinage of the subdivisions of the dollar authorized by this act, the Treasurer of the Mint shall, with the approval of the Director, purchase such bullion with the bullion fund of the mint. He shall charge himself with the gain arising from the coinage of such bullion into coins of a nominal value exceeding the intrinsic value thereof, and shall be credited with the difference between such intrinsic value and the price paid for said bullion, and with the expense of distributing said coins as hereinafter provided. The balances to his credit, or the profit of said coinage, shall be, from time to time, on a warrant of the Director of the mint, transferred to the account of the Treasury of the United States.

SEC. 4. *And be it further enacted*, That such coins shall be paid out at the mint, in exchange for gold coins at par, in sums not less than one hundred dollars; and it shall be lawful, also, to transmit parcels of the

(a) Act of Jan. 18, 1837, ch. 3, sec. 9; 5 Stat. at Large, 137; 1853, ch. 96, sec. 7.

BY AUTHORITY OF CONGRESS.

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THE

Statutes at Large and Treaties,

OF THE

UNITED STATES OF AMERICA,

FROM

DECEMBER 3, 1855, TO MARCH 3, 1859,

AND

PROCLAMATIONS SINCE 1791,

Arranged in Chronological Order;

WITH

REFERENCES TO THE MATTER OF EACH ACT AND TO THE  
SUBSEQUENT ACTS ON THE SAME SUBJECT.

EDITED BY

GEORGE MINOT AND GEORGE P. SANGER, ESQUIRES.

COUNSELLORS AT LAW.

The rights and interest of the United States in the stereotype plates from which this work is printed are hereby recognized, acknowledged, and declared by the publishers, according to the provisions of the joint resolution of Congress, passed March 3, 1845.

VOL. XI.

BOSTON:

LITTLE, BROWN AND COMPANY.

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1859.

CHAP. XXXVI.—*An Act to transfer certain Rights and Duties conferred upon the Trustees of the Town of Vincennes, Indiana, to the Common Council of the City of Vincennes.*

June 2, 1856.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That all the rights and duties conferred upon the trustees of the town of Vincennes, in the State of Indiana, under the act entitled "An act to adjust the claims to lots in the town of Vincennes, and for the sale of the land appropriated as a common for the use of the inhabitants of the said town," approved the twentieth day of April, eighteen hundred and eighteen, be, and the same are hereby, transferred to and vested in the common council of the city of Vincennes, in said State.

Rights and duties transferred to common council of Vincennes.

1818, ch. 128.  
Vol. 3, p. 468.

APPROVED, June 2, 1856.

CHAP. XLI.—*An Act granting Public Lands, in alternate Sections, to the State of Alabama to aid in the Construction of certain Railroads in said State.*

June 3, 1856.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there be, and is hereby, granted to the State of Alabama, for the purpose of aiding in the construction of railroads; from the Tennessee River, at, or near Gunter's landing, to Gadsden, on the Coosa River; from Gadsden to connect with the Georgia and Tennessee and Tennessee line of railroads, through Chattooga, Wills, and Lookout Valleys; and from Elyton to the Tennessee River at or near Beard's Bluff, Alabama, every alternate section of land designated by odd numbers, for six sections in width on each side of each of said roads. But in case it shall appear that the United States have, when the lines or routes of said roads are definitely fixed, sold any sections or any parts thereof, granted as aforesaid, or that the right of preemption has attached to the same, then it shall be lawful for any agent or agents, to be appointed by the governor of said State, to select, subject to the approval of the Secretary of the Interior, from the lands of the United States nearest to the tiers of sections above specified, so much land, in alternate sections, or parts of sections, as shall be equal to such lands as the United States have sold, or otherwise appropriated, or to which the rights of preemption have attached as aforesaid, which lands (thus selected in lieu of those sold and to which preemption rights have attached as aforesaid, together with the sections and parts of sections designated by odd numbers, as aforesaid, and appropriated as aforesaid) shall be held by the State of Alabama, for the use and purpose aforesaid: *Provided,* That the land to be so located shall in no case be further than fifteen miles from the lines of said roads, and selected for and on account of each of said roads: *Provided further,* That the lands hereby granted for and on account of said roads, severally, shall be exclusively applied in the construction of that road for and on account of which such lands are hereby granted, and shall be disposed of only as the work progresses, and the same shall be applied to no other purpose whatsoever: *And provided further,* That any and all lands heretofore reserved to the United States by any act of Congress, or in any other manner by competent authority, for the purpose of aiding in any object of internal improvement, or for any other purpose whatsoever, be, and the same are hereby, reserved to the United States from the operation of this act, except so far as it may be found necessary to locate the routes of said railroads through such reserved lands, in which case the right of way only shall be granted, subject to the approval of the President of the United States.

Grant of land to Alabama for railroads.

Grant in lieu of sections sold or preempted.

Grant, how applied.

Act not to apply to reservations except as to right of way

SEC. 2. *And be it further enacted,* That the sections and parts of sections of land which, by such grant, shall remain to the United States, within six miles on each side of said roads, shall not be sold for less than double the minimum price of the public lands when sold, nor shall any

Price of alternate sections doubled.



cannot be confirmed, purchase-money to be repaid.

Where purchase-money is invested in stocks, &c., stocks may be sold, &c.

the sale cannot be confirmed, to repay to the purchaser or purchasers, or to the legal representatives or assignees of the purchaser or purchasers thereof, the sum or sums of money, which may have been paid therefor, out of any money in the treasury not otherwise appropriated.

SEC. 2. [And] be it further enacted, That, whenever any tract of land has been erroneously sold, as aforesaid, and the sum or sums of money which may have been paid for the same, shall have been invested in any stocks held in trust, or shall have been paid into the treasury of the United States, to the credit of any trust fund, it shall be lawful by the sale of such portion of the said stocks as may be necessary for that purpose, or out of said trust fund, for repayment of the purchase-money to be made to the parties entitled thereto.

APPROVED, February 28, 1859.

Feb. 28, 1859.

CHAP. LXV.—*An Act giving the Assent of Congress to a Law of the Missouri Legislature for the Application of the reserved two per cent. Land Fund of said State.*

Assent of Congress given to an act of the legislature of Missouri.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the assent of Congress be, and the same is hereby, given to the act of the legislature of the State of Missouri, entitled "An act supplemental to an act to amend 'An act to secure the completion of certain railroads in this State, and for other purposes,'" approved on the nineteenth day of November, eighteen hundred and fifty-seven, appropriating the two per centum of the net proceeds of sales of public lands in said State, reserved by existing laws to be expended under the direction of Congress, but hereby relinquished to that State; and that the proper accounting officers of the government are hereby authorized and required to audit and pay the accounts for the same, as in the case of the three per centum land fund of said State.

Accounts to be audited, &c.

APPROVED, February 28, 1859.

Feb. 28, 1859.

CHAP. LXVI.—*An Act making Appropriations for the current and contingent Expenses of the Indian Department, and for fulfilling Treaty Stipulations with various Indian Tribes, for the Year ending June thirtieth, eighteen hundred and sixty.*

Appropriation.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums be, and they are hereby, appropriated, out of any money in the treasury not otherwise appropriated, for the purpose of paying the current and contingent expenses of the Indian department and fulfilling treaty stipulations with the various Indian tribes.

For the current and contingent expenses of the Indian department, viz:—

1850, ch. 16,  
1850, ch. 82.  
1851, ch. 14.  
1852, ch. 11.  
1853, ch. 104.  
1854, ch. 167.  
1855, ch. 204.  
1856, ch. 128.  
1857, ch. 90.  
1858, ch. 155.

For the pay of superintendents of Indian affairs and of the several Indian agents, per acts of fifth June, eighteen hundred and fifty, twenty-eighth September, eighteen hundred and fifty, twenty-seventh February, eighteen hundred and fifty-one, third March, eighteen hundred and fifty-two, third March, eighteen hundred and fifty-three, thirty-first July, eighteen hundred and fifty-four, third March, eighteen hundred and fifty-five, eighteenth August, eighteen hundred and fifty-six, third March, eighteen hundred and fifty-seven, and twelfth June, eighteen hundred and fifty-eight, eighty-seven thousand seven hundred and fifty dollars.

*Aute*, p. 329.  
Sub-agents.  
1854, ch. 167.  
Vol. x. p. 315.  
1846, ch. 34.  
Vol. ix. p. 20.  
1852, ch. 11.  
Vol. x. p. 2.

For the pay of the several Indian sub-agents, per act of thirty-first July, eighteen hundred and fifty-four, ten thousand five hundred dollars.

For the pay of clerk to superintendent at St. Louis, Missouri, per act of twenty-seventh June, eighteen hundred and forty-six, one thousand two hundred dollars.

For the pay of clerk to superintendent in California, per act of third March, eighteen hundred and fifty-two, one thousand eight hundred dollars.

- For the pay of interpreters, per acts of thirtieth June, eighteen hundred and thirty-four, twenty-seventh February, eighteen hundred and fifty-one, and eighteenth August, eighteen hundred and fifty-six, thirty-one thousand nine hundred dollars. Interpreters.  
1834, ch. 162.  
1851, ch. 14.  
1856, ch. 128.
- For presents to Indians, five thousand dollars. Presents.
- For provisions for Indians, eleven thousand eight hundred dollars. Provisions.
- For buildings at agencies, and repairs thereof, ten thousand dollars. Buildings.
- For insurance, transportation, and necessary expenses of delivery of annuities, goods, and provisions to the Indian tribes in Minnesota, Michigan, and Wisconsin, thirty thousand dollars. Transportation, &c.
- For contingencies of the Indian department, thirty-six thousand five hundred dollars. Contingencies.
- For the employment of temporary clerks by superintendent of Indian affairs, on such occasions and for such periods of time as the Secretary of the Interior may deem necessary to the public service, five thousand dollars. Temporary clerks.
- For fulfilling treaty stipulations with the various Indian tribes :  
*Blackfoot Nation.*—For fourth of ten instalments as annuity, to be expended in the purchase of such goods, provisions, and other useful articles, as the President, at his discretion, may from time to time determine, per ninth article of the treaty of seventeenth October, eighteen hundred and fifty-five, twenty thousand dollars. Blackfoot Nation.  
*Post*, p. 659.
- For fourth of ten instalments as annuity, to be expended in establishing and instructing them in agricultural and mechanical pursuits, and in educating their children, and promoting civilization and Christianity, at the discretion of the President, per tenth article of the treaty of seventeenth October, eighteen hundred and fifty-five, fifteen thousand dollars.
- For expenses of transportation and delivery of annuities in goods and provisions, seventeen thousand dollars.
- Calapooias, Molalla, and Clackamas Indians of Willamette Valley.*—For the last of five instalments of annuity for beneficial objects, per second article of treaty twenty-second January, eighteen hundred and fifty-five, ten thousand dollars. Calapooias, Molalla, and Clackamas of Willamette Valley.  
Vol. x. p. 1144.
- For last of five instalments for pay of physician, teacher, blacksmith, and farmer, per third article treaty twenty-second January, eighteen hundred and fifty-five, five thousand seven hundred dollars.
- Chasta, Scoton, and Umpqua Indians.*—For fifth of fifteen instalments of annuity, to be expended as directed by the President, per third article treaty eighteenth November, eighteen hundred and fifty-four, two thousand dollars. Chasta, Scoton, and Umpqua Indians.  
Vol. x. p. 1122.
- For fifth of fifteen instalments for the pay of a farmer, per fifth article treaty eighteenth November, eighteen hundred and fifty-four, one thousand dollars. Vol. x. p. 1123.
- For last of five instalments for support of two smiths and smiths' shops, per fifth article treaty eighteenth November, eighteen hundred and fifty-four, two thousand one hundred twenty dollars.
- For fifth of ten instalments for pay of physician, medicines, and expense of care of the sick, per fifth article treaty eighteenth November, eighteen hundred and fifty-four, one thousand five hundred dollars.
- For fifth of fifteen instalments for pay of teachers and purchase of books and stationery, per fifth article treaty eighteenth November, eighteen hundred and fifty-four, one thousand two hundred dollars.
- Chippewas of Lake Superior.*—For two thirds of eighteenth of twenty-five instalments in money, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, eight thousand three hundred and thirty-three dollars and thirty-three cents. Chippewas of Lake Superior.  
Vol. vii. p. 592.  
Vol. x. p. 1109.
- For two thirds of eighteenth of twenty-five instalments for the pay of two carpenters, per fourth article treaty fourth October, eighteen hundred

and forty-two and eighth article treaty thirtieth September, eighteen hundred and fifty-four, eight hundred dollars.

For two thirds of eighteenth of twenty-five instalments in goods, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, seven thousand dollars.

For two thirds of eighteenth of twenty-five instalments for the support of schools, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, one thousand three hundred and thirty-three dollars and thirty-three cents.

For two thirds of eighteenth of twenty-five instalments for the pay of two farmers, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, six hundred and sixty-six dollars and sixty-seven cents.

For two thirds of eighteenth of twenty-five instalments for the purchase of provisions and tobacco, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, one thousand three hundred and thirty-three dollars and thirty-three cents.

For fifth of twenty instalments in coin, goods, household furniture, and cooking utensils, agricultural implements and cattle, carpenters' and other tools and building materials, and for moral and educational purposes, per fourth article treaty thirtieth September, eighteen hundred and fifty-four, nineteen thousand dollars.

For last of five instalments in blankets, cloths, nets, guns, ammunition, and such other articles of necessity as they may require, to the Bois Forte band, per twelfth article treaty thirtieth September, eighteen hundred and fifty-four, two thousand dollars.

For fifth of twenty instalments for six smiths and assistants, per second and fifth articles treaty thirtieth September, eighteen hundred and fifty-four, five thousand and forty dollars.

For fifth of twenty instalments for the support of six smiths' shops, per second and fifth articles treaty thirtieth September, eighteen hundred and fifty-four, one thousand three hundred and twenty dollars.

For third of twenty instalments for the seventh smith and assistant, and support of shop, per second and fifth articles treaty thirtieth September, eighteen hundred and fifty-four, one thousand and sixty dollars.

For support of a smith, assistant, and shop for the Bois Forte band, during the pleasure of the President, per twelfth article treaty thirtieth September, eighteen hundred and fifty-four, one thousand and sixty dollars.

For support of two farmers for the Bois Forte band, during the pleasure of the President, per twelfth article treaty thirtieth September, eighteen hundred and fifty-four, one thousand two hundred dollars.

Chippewas of  
the Mississippi.  
Vol. vii. p. 592.  
Vol. x. p. 1109.

*Chippewas of the Mississippi.*—For one third of eighteenth of twenty-five instalments in money, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, four thousand one hundred and sixty-six dollars and sixty-seven cents.

For one third of eighteenth of twenty-five instalments for the pay of two carpenters, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, four hundred dollars.

For one third of eighteenth of twenty-five instalments in goods, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, three thousand five hundred dollars.



For one third of eighteenth of twenty-five instalments for the support of schools, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, six hundred and sixty-six dollars and sixty-seven cents.

For one third of eighteenth of twenty-five instalments for the purchase of provisions and tobacco, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, six hundred and sixty-six dollars and sixty-seven cents.

For one third of eighteenth of twenty-five instalments for the support of two smiths' shops, including the pay of two smiths and assistants, and furnishing iron and steel, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, six hundred and sixty-six dollars and sixty-seven cents.

For one third of eighteenth of twenty-five instalments for pay of two farmers, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, three hundred and thirty-three dollars and thirty-three cents.

For fifth of twenty instalments of annuity in money, per third article treaty twenty-second February, eighteen hundred and fifty-five, twenty thousand dollars.

Vol. x. p. 1165.

*Chippewas, Pillager, and Lake Winnibigoshish Bands.*—For fifth of thirty instalments of annuity in money, per third article treaty twenty-second February, eighteen hundred and fifty-five, ten thousand six hundred and sixty-six dollars and sixty-six cents.

Chippewas, Pillager, and Lake Winnibigoshish Bands.

For fifth of thirty instalments of annuity in goods, per third article treaty twenty-second February, eighteen hundred and fifty-five, eight thousand dollars.

Vol. x. p. 1165.

For fifth of thirty instalments for purposes of utility, per third article treaty twenty-second February, eighteen hundred and fifty-five, four thousand dollars.

For fifth of twenty instalments for purposes of education, per third article treaty twenty-second February, eighteen hundred and fifty-five, three thousand dollars.

For last of five annual instalments for the purchase of powder, shot, lead, twine, and tobacco, per third article treaty twenty-second February, eighteen hundred and fifty-five, six hundred dollars.

For last of five annual instalments for the hire of six laborers, per third article treaty twenty-second February, eighteen hundred and fifty-five, three thousand dollars.

For fifth of fifteen annual instalments for support of two smiths and smiths' shops, per third article treaty twenty-second February, eighteen hundred and fifty-five, two thousand one hundred and twenty dollars.

*Chippewas of Saginaw, Swan Creek, and Black River.*—For fourth of five equal annual instalments for educational purposes, under the direction of the President, per second article of the treaty of second August, eighteen hundred and fifty-five, four thousand dollars.

Chippewas of Saginaw, Swan Creek, and Black River.

Post, p. 634.

For fourth of five equal annual instalments for agricultural implements and carpenters' tools, household furniture and building materials, cattle, labor, and necessary useful articles, per second article of the treaty of second August, eighteen hundred and fifty-five, five thousand dollars.

For fourth of ten equal annual instalments in coin, to be distributed per capita, in the usual manner of paying annuities, per second article of the treaty of second August, eighteen hundred and fifty-five, ten thousand dollars.

For fourth instalment for the support of one blacksmith shop for ten years, per second article of the treaty of second August, eighteen hundred and fifty-five, twelve hundred and forty dollars.

Chippewas, Menomonees, Winnebagoes, and New York Indians.

Vol. vii. p. 304.  
Chickasaws.  
1799, ch. 11.

Vol. i. p. 618.  
Chickasaw Incompetents.

Choctaws.

Vol. vii. p. 99.  
Post, p. 614.

Vol. vii. p. 213.

Vol. vii. p. 225.

Comanches, Kiowas, and Apaches of Arkansas River.

Vol. x. p. 1014.

Creeks.

Vol. vii. p. 36.

Post, p. 700.

Vol. vii. p. 69.

Vol. vii. p. 287.

*Chippewas, Menomonees, Winnebagoes, and New York Indians.*—For education during the pleasure of Congress, per fifth article treaty eleventh August, eighteen hundred and twenty-seven, one thousand five hundred dollars.

*Chickasaws.*—For permanent annuity in goods, per act of twenty-fifth February, seventeen hundred and ninety-nine, three thousand dollars.

*Chickasaw Incompetents.*—For arrears of interest due January first, eighteen hundred and fifty-nine, on five per cent. bonds of the State of Indiana, held in trust for the Chickasaw Incompetents by the Secretary of the Interior, three hundred and fifty dollars.

*Choctaws.*—For permanent annuity, per second article treaty sixteenth November, eighteen hundred and five, and thirteenth article treaty twenty-second June, eighteen hundred and fifty-five, three thousand dollars.

For permanent annuity for support of light-horsemen, per thirteenth article treaty eighteenth October, eighteen hundred and twenty, and thirteenth article treaty twenty-second June, eighteen hundred and fifty-five, six hundred dollars.

For permanent provision for education, per second article treaty twentieth January, eighteen hundred and twenty-five, and thirteenth article treaty twenty-second June, eighteen hundred and fifty-five, six thousand dollars.

For permanent provision for blacksmith, per sixth article treaty eighteenth October, eighteen hundred and twenty, and thirteenth article treaty twenty-second June, eighteen hundred and fifty-five, six hundred dollars.

For permanent provision for iron and steel, per ninth article treaty twentieth January, eighteen hundred and twenty-five, and thirteenth article of treaty twenty-second June, eighteen hundred and fifty-five, three hundred and twenty dollars.

For interest on five hundred thousand dollars, at five per centum, for education and other beneficial purposes, to be applied under the direction of the general council of the Choctaws, in conformity with the provisions contained in the tenth and thirteenth articles of the treaty of twenty-second June, eighteen hundred and fifty-five, twenty-five thousand dollars.

*Comanches, Kiowas, and Apaches of Arkansas River.*—For sixth of ten instalments for the purchase of goods, provisions, and agricultural implements, per sixth article treaty twenty-seventh July, eighteen hundred and fifty-three, eighteen thousand dollars.

For expenses of transportation of the sixth of ten instalments of goods, provisions, and agricultural implements, per sixth article treaty twenty-seventh July, eighteen hundred and fifty-three, seven thousand dollars.

*Creeks.*—For permanent annuity in money, per fourth article treaty seventh August, seventeen hundred and ninety, and fifth article treaty seventh August, eighteen hundred and fifty-six, one thousand five hundred dollars.

For permanent annuity in money, per second article treaty sixteenth June, eighteen hundred and two, and fifth article treaty seventh August, eighteen hundred and fifty-six, three thousand dollars.

For permanent annuity in money, per fourth article treaty twenty-fourth January, eighteen hundred and twenty-six, and fifth article treaty seventh August, eighteen hundred and fifty-six, twenty thousand dollars.

For permanent provision for blacksmith and assistant, and for shop and tools, per eighth article treaty twenty-fourth January, eighteen hundred and twenty-six, and fifth article treaty seventh August, eighteen hundred and fifty-six, eight hundred and forty dollars.

For permanent provision for iron and steel for shop, per eighth article treaty twenty-fourth January, eighteen hundred and twenty-six, and fifth article treaty seventh August, eighteen hundred and fifty-six, two hundred and seventy dollars.

For permanent provision for the pay of a wheelwright, per eighth article treaty twenty-fourth January, eighteen hundred and twenty-six, and fifth article treaty seventh August, eighteen hundred and fifty-six, six hundred dollars.

For blacksmith and assistant and shop and tools during the pleasure of the President, per fifth article treaty fourteenth February, eighteen hundred and thirty-three, and fifth article treaty seventh August, eighteen hundred and fifty-six, eight hundred and forty dollars. Vol. vii. p. 419.

For iron and steel for shop during the pleasure of the President, per fifth article treaty fourteenth February, eighteen hundred and thirty-three, and fifth article treaty seventh August, eighteen hundred and fifty-six, two hundred and seventy dollars.

For wagon-maker during the pleasure of the President, per fifth article treaty fourteenth February, eighteen hundred and thirty-three, and fifth article treaty seventh August, eighteen hundred and fifty-six, six hundred dollars.

For assistance in agricultural operations during the pleasure of the President, per eighth article treaty twenty-fourth January, eighteen hundred and twenty-six, and fifth article treaty twenty-seventh August, eighteen hundred and fifty-six, two thousand dollars.

For education during the pleasure of the President, per fifth article treaty fourteenth February, eighteen hundred and thirty-three, and fifth article treaty seventh August, eighteen hundred and fifty-six, one thousand dollars.

For the third of seven additional instalments for two blacksmiths, assistants, shop, and tools, per thirteenth article treaty twenty-fourth March, eighteen hundred and thirty-two, and fifth article treaty seventh August, eighteen hundred and fifty-six, one thousand six hundred and eighty dollars. Vol. vii. p. 368.

For the third of seven additional instalments for iron and steel for shops, per thirteenth article treaty twenty-fourth March, eighteen hundred and thirty-two, and fifth article treaty seventh August, eighteen hundred and fifty-six, five hundred and forty dollars.

For twenty-ninth of thirty-three instalments for education, per fourth article treaty fourth January, eighteen hundred and forty-five, and fifth article treaty seventh August, eighteen hundred and fifty-six, three thousand dollars. Vol. ix. p. 822.

For sixteenth of twenty instalments for education, per fourth article treaty fourth January, eighteen hundred and forty-five, and fifth article treaty seventh August, eighteen hundred and fifty-six, three thousand dollars.

For five per centum interest on two hundred thousand dollars for purposes of education, per sixth article treaty seventh August, eighteen hundred and fifty-six, ten thousand dollars.

*Delawares.*—For life annuity to chief, per private article to supplemental treaty twenty-fourth September, eighteen hundred and twenty-nine, to treaty of third October, eighteen hundred and eighteen, one hundred dollars. Vol. vii. p. 327. Vol. vii. p. 188.

For interest on forty-six thousand and eighty dollars, at five per centum, being the value of thirty-six sections of land set apart by treaty of eighteen hundred and twenty-nine for education, per resolution of the Senate nineteenth January, eighteen hundred and thirty-eight, and fifth article treaty sixth May, eighteen hundred and fifty-four, two thousand three hundred and four dollars. Vol. x. p. 1049.

For sixth of eight equal instalments for payment of five chiefs, per sixth article treaty sixth May, eighteen hundred and fifty-four, one thousand two hundred and fifty dollars.

*Iowas.*—For interest in lieu of investment on fifty-seven thousand five hundred dollars to the first July, eighteen hundred and sixty, at five per centum, for education or other beneficial purposes, under the direction of



- Vol. vii. p. 568. the President, per second article treaty nineteenth October, eighteen hundred and thirty-eight, and ninth article treaty seventeenth May, eighteen hundred and fifty-four, two thousand eight hundred and seventy-five dollars.
- Vol. x. p. 1071. *Kansas.* *Kansas.*—For interest in lieu of investment on two hundred thousand dollars, at five per centum, per second article treaty fourteenth January, eighteen hundred and forty-six, ten thousand dollars.
- Vol. ix. p. 842. *Kaskaskias, Peorias, Weas, and Piankeshaws.*—For last of three instalments of nine thousand dollars each, for the years eighteen hundred and fifty-seven, eighteen hundred and fifty-eight, and eighteen hundred and fifty-nine, per sixth article treaty thirtieth May, eighteen hundred and fifty-four, nine thousand dollars.
- Vol. x. p. 1062. *Kickapoos.* *Kickapoos.*—For sixth instalment of interest, at five per centum, on one hundred thousand dollars for education, per second article treaty eighteenth May, eighteen hundred and fifty-four, five thousand dollars.
- Vol. x. p. 1078. For the payment of this sum as the sixth instalment upon two hundred thousand dollars, to be paid in eighteen hundred and fifty-nine, per second article treaty eighteenth May, eighteen hundred and fifty-four, nine thousand dollars.
- Menomonees.* *Menomonees.*—For fourth of twelve instalments for continuing and keeping up a blacksmith shop and providing the usual quantity of iron and steel, per fourth article treaty eighteenth October, eighteen hundred and forty-eight, and third article treaty twelfth May, eighteen hundred and fifty-four, nine hundred and sixteen dollars and sixty-six cents.
- Vol. ix. p. 952. For fourth of ten instalments of annuity upon two hundred thousand dollars, balance of three hundred and fifty thousand dollars for cession of lands, per fourth article treaty eighteenth October, eighteen hundred and forty-eight, and third article treaty twelfth May, eighteen hundred and fifty-four, twenty thousand dollars.
- Vol. x. p. 1064. *Miamies of Kansas.* *Miamies of Kansas.*—For permanent provision for blacksmith and assistant, and iron and steel for shop, per fifth article treaty sixth October, eighteen hundred and eighteen, and fourth article treaty fifth June, eighteen hundred and fifty-four, nine hundred and forty dollars.
- Vol. vii. p. 189. For permanent provision for miller, in lieu of gunsmith, per fifth article treaty sixth October, eighteen hundred and eighteen, fifth article treaty twenty-third October, eighteen hundred and thirty-four, and fourth article treaty fifth June, eighteen hundred and fifty-four, six hundred dollars.
- Vol. x. p. 1093. For their proportion of nineteenth of twenty instalments in money, per second article treaty twenty-eighth November, eighteen hundred and forty, and fourth article treaty fifth June, eighteen hundred and fifty-four, five thousand six hundred and thirty-six dollars and thirty-six cents.
- Vol. vii. pp. 458, 464. For interest on fifty thousand dollars, at five per centum, for educational purposes, per third article treaty fifth June, eighteen hundred and fifty-four, two thousand five hundred dollars.
- Vol. vii. p. 582. For last of six equal annual instalments to *Miamies* residing on ceded lands, for purchase of former perpetual and other annuities and relinquishment of claims, per fourth article treaty fifth June, eighteen hundred and fifty-four, thirty-one thousand seven hundred and thirty-nine dollars and eleven cents.
- Miamies of Indiana.* *Miamies of Indiana.*—For their proportion of nineteenth of twenty instalments in money, per second article treaty twenty-eighth November, eighteen hundred and forty, and fourth article treaty fifth June, eighteen hundred and fifty-four, six thousand eight hundred and sixty-three dollars and sixty-four cents.
- Vol. vii. p. 582. For interest on investment of two hundred and twenty-one thousand two hundred and fifty-seven dollars and eighty-six cents, at five per centum, for *Miami Indians of Indiana*, per Senate's amendment to fourth article treaty fifth June, eighteen hundred and fifty-four, eleven thousand and sixty-two dollars and eighty-nine cents.
- Vol. x. p. 1093.

*Miamies—Eel River.*—For permanent annuity in goods or otherwise, per fourth article treaty third August, seventeen hundred and ninety-five, five hundred dollars. Miamies, Eel River.

Vol. vii. p. 51.

For permanent annuity in goods or otherwise, per third article treaty twenty-first August, eighteen hundred and five, two hundred and fifty dollars. Vol. vii. p. 91.

For permanent annuity in goods or otherwise, per third and separate article to treaty thirtieth September, eighteen hundred and nine, three hundred and fifty dollars. Vol. vii. p. 114.

*Nesqually, Puyallup, and other Tribes and Bands of Indians.*—For fifth instalment, in part payment for relinquishment of title to lands to be applied to beneficial objects, per fourth article treaty twenty-sixth December, eighteen hundred and fifty-four, two thousand dollars. Nesqually, Puyallup, and other tribes and bands of Indians.

Vol. x. p. 1132.

For fifth of twenty instalments for pay of instructor, smith, physician, carpenter, farmer, and assistant if necessary, per tenth article treaty twenty-sixth December, eighteen hundred and fifty-four, six thousand seven hundred dollars.

*Omahas.*—For the second of ten instalments of this amount, being second of the series, in money or otherwise, per fourth article treaty sixteenth March, eighteen hundred and fifty-four, thirty thousand dollars. Omahas.

Vol. x. p. 1044.

For fifth of ten instalments for support of a miller, per eighth article treaty sixteenth March, eighteen hundred and fifty-four, six hundred dollars.

For fifth of ten instalments for support of blacksmith and assistant, and iron and steel for shop, per eighth article treaty sixteenth March, eighteen hundred and fifty-four, nine hundred and forty dollars.

For fifth of ten instalments for support of farmer, per eighth article treaty sixteenth March, eighteen hundred and fifty-four, six hundred dollars.

For keeping in repair the grist and saw mill provided for by the eighth article of the treaty of sixteenth March, eighteen hundred and fifty-four, five hundred dollars.

For supplying the smith's shop with tools and keeping the same in repair, per eighth article of the treaty of sixteenth March, eighteen hundred and fifty-four, three hundred dollars.

For an assistant miller, three hundred dollars.

For an engineer and assistant, one thousand eight hundred dollars.

*Osages.*—For interest on sixty-nine thousand one hundred and twenty dollars, at five per centum, being the value of fifty-four sections of land set apart second June, eighteen hundred and twenty-five, for educational purposes, per Senate resolution nineteenth January, eighteen hundred and thirty-eight, three thousand four hundred and fifty-six dollars. Osages.

*Ottos and Missourias.*—For the second of ten instalments of this amount, being the second series, in money or otherwise, per fourth article treaty fifteenth March, eighteen hundred and fifty-four, thirteen thousand dollars. Ottos and Missourias.

Vol. x. p. 1039.

For fifth of ten instalments for pay of miller, per seventh article treaty fifteenth March, eighteen hundred and fifty-four, six hundred dollars.

For fifth of ten instalments for blacksmith and assistant, and iron and steel for shop, per seventh article treaty fifteenth March, eighteen hundred and fifty-four, nine hundred and forty dollars.

For fifth of ten instalments for farmer, per seventh article treaty fifteenth March, eighteen hundred and fifty-four, six hundred dollars.

For keeping in repair the grist and saw mill provided for by the seventh article of the treaty of fifteenth March, eighteen hundred and fifty-four, three hundred dollars.

For supplying the smiths' shops with tools, and keeping the same in repair, per seventh article of the treaty fifteenth March, eighteen hundred and fifty-four, three hundred dollars.

- For assistant miller, three hundred dollars.
- For an engineer and assistant, one thousand eight hundred dollars.
- Ottawas and Chippewas of Michigan.*—For fourth of ten equal annual instalments for educational purposes, to be expended under the direction of the President, according to the wishes of the Indians, so far as may be reasonable and just, per second article of the treaty of thirty-first July, eighteen hundred and fifty-five, eight thousand dollars.
- For fourth of five equal annual instalments in agricultural implements and carpenters' tools, household furniture, and building materials, cattle, labor, and necessary useful articles, per second article of the treaty of thirty-first July, eighteen hundred and fifty-five, fifteen thousand dollars.
- For fourth instalment for the support of four blacksmith shops for ten years, per second article of the treaty of thirty-first July, eighteen hundred and fifty-five, four thousand two hundred and forty dollars.
- For fourth instalment of principle, payable annually for ten years, to be distributed per capita, in the usual manner of paying annuities, per second article of the treaty of thirty-first July, eighteen hundred and fifty-five, ten thousand dollars.
- For interest on two hundred and sixty-six thousand dollars, unpaid part of the principal sum of three hundred and six thousand dollars, for one year, at five per centum per annum, to be distributed per capita, in the usual manner of paying annuities, per second article of the treaty of thirty-first July, eighteen hundred and fifty-five, thirteen thousand three hundred dollars.
- For fourth of ten equal annual instalments on thirty-five thousand dollars, in lieu of former treaty stipulations, to be paid per capita to the Grand River Ottawas, per second article of the treaty of thirty-first July, eighteen hundred and fifty-five, three thousand five hundred dollars.
- Ottawas of Kansas.*—For their proportion of the permanent annuities in money, goods, or otherwise, payable under the fourth article of the treaty of third August, seventeen hundred and ninety-five, second article of the treaty of seventeenth November, eighteen hundred and seven, fourth article of the treaty of seventeenth September, eighteen hundred and eighteen, and fourth article of the treaty of twenty-ninth August, eighteen hundred and twenty-one, two thousand six hundred dollars.
- Pawnees.*—For second of five instalments in goods and such articles as may be necessary for them, per second article treaty twenty-fourth September, eighteen hundred and fifty-seven, forty thousand dollars.
- For second of ten instalments for farming utensils and stock during the pleasure of the President, per fourth article treaty twenty-fourth September, eighteen hundred and fifty-seven, one thousand two hundred dollars.
- Pottawatomies.*—For permanent annuity in silver, per fourth article treaty third August, seventeen hundred and ninety-five, one thousand dollars.
- For permanent annuity in silver, per third article treaty thirtieth September, eighteen hundred and nine, five hundred dollars.
- For permanent annuity in silver, per third article treaty second October, eighteen hundred and eighteen, two thousand five hundred dollars.
- For permanent annuity in money, per second article treaty twentieth September, eighteen hundred and twenty-eight, two thousand dollars.
- For permanent annuity in specie, per second article treaty twenty-ninth July, eighteen hundred and twenty-nine, sixteen thousand dollars.
- For life annuity to chief, per third article treaty twentieth October, eighteen hundred and thirty-two, two hundred dollars.
- For life annuity to chiefs, per third article treaty twenty-sixth September, eighteen hundred and thirty-three, seven hundred dollars.
- For education during the pleasure of Congress, per third article treaty sixteenth October, eighteen hundred and twenty-six, second article treaty

Ottawas and  
Chippewas of  
Michigan.

Post, p. 623.

Ottawas of  
Kansas.

Vol. vii. p. 51.

Vol. vii. p. 105.

Vol. vii. p. 179.

Vol. vii. p. 220.

Pawnees.

Post, p. 729.

Pottawatomies.

Vol. vii. p. 51.

Vol. vii. p. 114.

Vol. vii. p. 185.

Vol. vii. p. 317.

Vol. vii. p. 320.

Vol. vii. p. 379.

Vol. vii. p. 432.

Vol. vii. p. 296.



twentieth September, eighteen hundred and twenty-eight, and fourth article treaty twenty-seventh October, eighteen hundred and thirty-two, five thousand dollars. Vol. vii. p. 317.  
Vol. vii. p. 401.

For permanent provision for the payment of money, in lieu of tobacco, iron, and steel, per second article treaty twentieth September, eighteen hundred and twenty-eight, and tenth article of the treaty of the fifth and seventeenth June, eighteen hundred and forty-six, three hundred dollars. Vol. ix. p. 855.

For permanent provision for three blacksmiths and assistants, per second article treaty twentieth September, eighteen hundred and twenty-eight, two thousand one hundred and sixty dollars.

For permanent provision for iron and steel for shops, per third article treaty sixteenth October, eighteen hundred and twenty-six, and second article treaty twenty-ninth July, eighteen hundred and twenty-nine, six hundred and sixty dollars. Vol. vii. p. 320.

For permanent provision for fifty barrels of salt, per second article of treaty twenty-ninth July, eighteen hundred and twenty-nine, two hundred and fifty dollars.

For interest on six hundred and forty-three thousand dollars, at five per centum, per seventh article of the treaty of the fifth and seventeenth June, eighteen hundred and forty-six, thirty-two thousand one hundred and fifty dollars.

For arrears of interest, due January first, eighteen hundred and fifty-nine, on five per cent. bonds of the State of Indiana, held in trust for the Pottawatomies by the Secretary of the Interior, twelve thousand and fifty-three dollars and twenty cents.—That the stocks with which the Secretary of the Interior is now charged upon the books of the treasury under the head of "Chippewas, Ottowas, and Pottawatomies, mills and education," be charged to two separate accounts to be opened under the heads of "Pottawatomies—mills, and Pottawatomies—education," and the Secretary of the Interior is hereby authorized, with the consent of the Pottawatomies, to transfer the stocks charged as aforesaid to the new heads of account in such proportions as he may deem best for the interest of the Pottawatomies. Arrears of interest.

*Pottawatomies of Huron.*—For permanent annuity in money or otherwise, per second article treaty seventeenth November, eighteen hundred and seven, four hundred dollars. Certain stocks to be charged to two accounts.  
Pottawatomies of Huron.  
Vol. vii. p. 105.

*Quapaws.*—For education during the pleasure of the President, per third article treaty thirteenth May, eighteen hundred and thirty-three, one thousand dollars. Quapaws.  
Vol. vii. p. 425.

For blacksmith and assistant, shop and tools, and iron and steel for shop, during the pleasure of the President, per third article treaty thirteenth May, eighteen hundred and thirty-three, one thousand and sixty dollars.

For farmer during the pleasure of the President, per third article treaty thirteenth May, eighteen hundred and thirty three, six hundred dollars.

*Rogue Rivers.*—For sixth of sixteen instalments in blankets, clothing, farming utensils, and stock, per third article treaty tenth September, eighteen hundred and fifty-three, two thousand five hundred dollars. Rogue Rivers.  
Vol. x. p. 1018.

*Sacs and Foxes of Mississippi.*—For permanent annuity in goods or otherwise, per third article treaty third November, eighteen hundred and four, one thousand dollars. Sacs and Foxes of Mississippi.  
Vol. vii. p. 85.

For twenty-eighth of thirty instalments as annuity in specie, per third article treaty twenty-first September, eighteen hundred and thirty-two, twenty thousand dollars. Vol. vii. p. 375.

For twenty-eighth of thirty instalments for gunsmith, per fourth article treaty twenty-first September, eighteen hundred and thirty-two, six hundred dollars.

For twenty-eighth of thirty instalments for iron and steel for shop, per

fourth article treaty twenty-first September, eighteen hundred and thirty-two, two hundred and twenty dollars.

For twenty-eighth of thirty instalments for blacksmith and assistant, shop and tools, per fourth article treaty twenty-first September, eighteen hundred and thirty-two, eight hundred and forty dollars.

For twenty-eighth of thirty instalments for iron and steel for shop, per fourth article treaty twenty-first September, eighteen hundred and thirty-two, two hundred and twenty dollars.

For twenty-eighth of thirty instalments for forty barrels of salt and forty kegs of tobacco, per fourth article treaty twenty-first September, eighteen hundred and thirty-two, one thousand dollars.

Vol. vii. p. 540. For interest on two hundred thousand dollars at five per centum, per second article treaty twenty-first October, eighteen hundred and thirty-seven, ten thousand dollars.

Vol. vii. p. 596. For interest on eight hundred thousand dollars, at five per centum, per second article treaty eleventh October, eighteen hundred and forty-two, forty thousand dollars.

Sacs and Foxes. *Sacs and Foxes of Missouri.*—For interest on one hundred and fifty-seven thousand four hundred dollars, at five per centum, under the direction of the President, per second article treaty twenty-first October, eighteen hundred and thirty-seven, seven thousand eight hundred and seventy dollars.

Vol. vii. p. 540. Seminoles. *Seminole.*—For the third of ten instalments for the support of schools, per eighth article treaty seventh August, eighteen hundred and fifty-six, three thousand dollars.

Post, p. 702. For the third of ten instalments for agricultural assistance, per eighth article treaty seventh August, eighteen hundred and fifty-six, two thousand dollars.

For the third of ten instalments for the support of smiths and smiths' shops, per eighth article treaty seventh August, eighteen hundred and fifty-six, two thousand two hundred dollars.

For five per centum interest on two hundred and fifty thousand dollars, to be paid as annuity, per eighth article treaty seventh August, eighteen hundred and fifty-six, twelve thousand five hundred dollars.

Senecas. Vol. vii. p. 161. *Senecas.*—For permanent annuity in specie, per fourth article treaty twenty-ninth September, eighteen hundred and seventeen, five hundred dollars.

Vol. vii. p. 179. For permanent annuity in specie, per fourth article treaty seventeenth September, eighteen hundred and eighteen, five hundred dollars.

Vol. vii. p. 349. For blacksmith and assistant, shop and tools, and iron and steel, during the pleasure of the President, per fourth article treaty twenty-eighth February, eighteen hundred and thirty-one, one thousand and sixty dollars.

For miller during the pleasure of the President, per fourth article treaty twenty-eighth February, eighteen hundred and thirty-one, six hundred dollars.

Senecas of New York. 1831, ch. 26. Vol. iv. p. 442. *Senecas of New York.*—For permanent annuity, in lieu of interest on stock, per act of nineteenth February, eighteen hundred and thirty-one, six thousand dollars.

1846, ch. 34. Vol. ix. p. 35. For interest, in lieu of investment, on seventy-five thousand dollars, at five per centum, per act of twenty-seventh June, eighteen hundred and forty-six, three thousand seven hundred and fifty dollars.

For interest, at five per centum, on forty-three thousand and fifty dollars, transferred from Ontario Bank to the United States Treasury, per act of twenty-seventh June, eighteen hundred and forty-six, two thousand one hundred and fifty-two dollars and fifty cents.

Senecas and Shawnees. Vol. vii. p. 179. *Senecas and Shawnees.*—For permanent annuity in specie, per fourth article treaty seventeenth September, eighteen hundred and eighteen, one thousand dollars.

For blacksmith and assistant, shop and tools, and iron and steel for shop during the pleasure of the President, per fourth article treaty twentieth July, eighteen hundred and thirty-one, one thousand and sixty dollars.

Vol. vii. p. 352.

*Shawnees.*—For permanent annuity for educational purposes, per fourth article treaty third August, seventeen hundred and ninety-five, and third article treaty tenth May, eighteen hundred and fifty-four, one thousand dollars.

Shawnees.  
Vol. vii. p. 51.  
Vol. x. p. 1066.

For sixth of seven annual instalments of money, in payment for lands, per third article treaty tenth May, eighteen hundred and fifty-four, one hundred thousand dollars.

For sixth instalment of interest, at five per centum, on forty thousand dollars for education, per third article treaty tenth May, eighteen hundred and fifty-four, two thousand dollars.

For permanent annuity for educational purposes, per fourth article treaty twenty-ninth September, eighteen hundred and seventeen, and third article treaty tenth May, eighteen hundred and fifty-four, two thousand dollars.

Vol. vii. p. 160.

*Six Nations of New York.*—For permanent annuity in clothing and other useful articles, per sixth article treaty eleventh November, seven hundred and ninety-four, four thousand five hundred dollars.

Six Nations of  
New York.  
Vol. vii. p. 46.

*Sioux of Mississippi.*—For interest on three hundred thousand dollars, at five per centum, per second article treaty twenty-ninth September, eighteen hundred and thirty-seven, fifteen thousand dollars.

Sioux of Mis-  
sissippi.  
Vol. vii. p. 538

For ninth of fifty instalments of interest, at five per centum, on one million three hundred and sixty thousand dollars, per fourth article treaty twenty-third July, eighteen hundred and fifty-one, sixty-eight thousand dollars.

Vol. x. p. 949.

For ninth of fifty instalments of interest, at five per centum, on one hundred and twelve thousand dollars, being the amount in lieu of the reservations set apart in the third article of Senate's amendment of twenty-third June, eighteen hundred and fifty-two, to treaty twenty-third July, eighteen hundred and fifty-one, five thousand six hundred dollars.

For ninth of fifty instalments of interest, at five per centum, on one million one hundred and sixty thousand dollars, per fourth article treaty fifth August, eighteen hundred and fifty-one, fifty-eight thousand dollars.

Vol. x. p. 954.

For ninth of fifty instalments of interest, at five per centum, on sixty-nine thousand dollars, being the amount allowed in lieu of the reservation of lands set apart by the third article of Senate's amendment of twenty-third June, eighteen hundred and fifty-two, to treaty fifth August, eighteen hundred and fifty-one, three thousand four hundred and fifty dollars.

*Treaty of Fort Laramie.*—For ninth of ten instalments in provisions and merchandise, for payment of annuities and transportation of the same to certain tribes of Indians, per seventh article treaty seventeenth September, eighteen hundred and fifty-one, and Senate's amendment thereto, seventy thousand dollars.

Treaty of Fort  
Laramie.  
Post, p. 749.

*Umpquas (Cow Creek Band).*—For sixth of twenty instalments in blankets, clothing, provisions, and stock, per third article treaty nineteenth September, eighteen hundred and fifty-three, five hundred and fifty dollars.

Umpquas (Cow  
Creek Band).  
Vol. x. p. 1027.

*Umpquas and Calapooias, of Umpqua Valley, Oregon.*—For the last of five instalments of annuity for beneficial objects, to be expended as directed by the President, per third article treaty twenty-ninth November, eighteen hundred and fifty-four, three thousand dollars.

Umpquas and  
Calapooias, of  
Umpqua Valley,  
Oregon.

For fifth of ten instalments for the pay of a blacksmith, and furnishing shop, per sixth article treaty twenty-ninth November, eighteen hundred and fifty-four, one thousand five hundred dollars.

Vol. x. p. 1125.

For fifth of fifteen instalments for the pay of a physician and purchase of medicines, per sixth article treaty twenty-ninth November, eighteen hundred and fifty-four, two thousand dollars.



For fifth of ten instalments for the pay of a farmer, per sixth article treaty twenty-ninth November, eighteen hundred and fifty-four one thousand dollars.

For fifth of twenty instalments for the pay of a teacher and purchase of books and stationery, per sixth article treaty twenty-ninth November, eighteen hundred and fifty-four, one thousand four hundred and fifty dollars.

Winnebagoes. *Winnebagoes.*—For interest on one million one hundred thousand dollars, at five per centum, per fourth article treaty first November, eighteen hundred and thirty-seven, fifty-five thousand dollars.

Vol. vii. p. 545.

Vol. ix. p. 878.

Miscellaneous.

Pawnee annuity goods.

Service in New Mexico.

*Miscellaneous.*—For insurance, transportation, and necessary expenses of the delivery of Pawnee annuity goods, five thousand dollars.

For the general incidental expenses of the Indian service in New Mexico, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes, and sustain themselves by the pursuit of civilized life, to be expended under the direction of the Secretary of the Interior, seventy-five thousand dollars.

Indians in Texas. For the compensation of three special agents and four interpreters for the Indian tribes of Texas and for purchase of presents, fifteen thousand dollars.

Proviso.

Indian service in Oregon and Washington.

For the expenses of colonizing, supporting, and furnishing agricultural implements and stock for the Indians in Texas, twenty-five thousand dollars: *Provided*, That no part of the same shall be expended for the establishment of the reserve west of the Pecos River.

For the general incidental expenses of the Indian service in the Territories of Oregon and Washington, including insurance and transportation of annuities, goods, and presents, and office and travelling expenses of the superintendent, agents, and sub-agents, thirty-five thousand dollars.

For defraying the expenses of the removal and subsistence of Indians in Oregon Territory to the reservations therein, aiding them in procuring their own subsistence, purchase of provisions, and presents, compensation of laborers and other employees, fifty thousand dollars.

For defraying the expenses of the removal and subsistence of the Indians in Washington Territory to the reservations therein, aiding them in procuring their own subsistence, purchase of provisions and presents, and compensation of laborers and other employees, twenty-five thousand dollars.

Indian service in California.

Reservations for Indian purposes in California may be increased.

Proviso.

Proviso.

For the Indian service in California, to be expended under the direction of the Secretary of the Interior, fifty thousand dollars. And the Commissioner of Indian Affairs is hereby authorized, by and with the consent of the Secretary of the Interior, to increase the number of reservations for Indian purposes in the State of California: *Provided*, The aggregate amount of land so set apart for reservations shall not exceed one hundred and twenty-five thousand acres: *Provided further*, That for the new reservations hereby authorized, no Indian agents, sub-agents, overseers or other officers or employees shall be appointed or employed under this act.

For the general incidental expenses of the Indian service in California including travelling expenses of the superintendent, agent, and sub-agents seven thousand five hundred dollars.

Indian service in Utah.

For the Indian service in the Territory of Utah, to be expended under the direction of the Secretary of the Interior, forty-five thousand dollars.

1855, ch. 175,

§ 24.  
Vol. x. p. 678.

For carrying into effect the twenty-fourth section of the civil and diplomatic act of March third, eighteen hundred and fifty-five, the sum of nineteen thousand and forty-five dollars and seventy-nine cents.

SEC. 2. *And be it further enacted*, That no part of the money hereby appropriated shall be used for the purchase of arms or ammunition to be given or furnished to any of the Indians herein named, unless such purchase of arms or ammunition aforesaid be in fulfilment of the obligations of existing treaties.

Arms, &c. not to be purchased, unless, &c.

SEC. 3. *And be it further enacted*, That the President of the United States be, and he hereby is, authorized and required to cause to be surveyed, and the boundaries thereof permanently marked, the tract or tracts of land lying on or near the Gila River, in the Territory of Arizona, New Mexico, now occupied by the confederated bands of Pima and Maricopa Indians, and the sum of one thousand dollars is hereby appropriated to defray the expenses of the said survey.

Tracts occupied by the Pima and Maricopa Indians on the Gila River to be surveyed, &c.

SEC. 4. *And be it further enacted*, That the President of the United States be, and he hereby is, authorized and required to set apart the tract or tracts of land aforesaid as a reservation for the confederated bands of Pimas and Maricopas: *Provided*, That the said reservations shall not exceed one hundred square miles in extent.

Reservations for said Indians.

Proviso.

SEC. 5. *And be it further enacted*, That the sum of ten thousand dollars is hereby appropriated to enable the Commissioner of Indian Affairs to make suitable presents to the Pimas and Maricopas, in acknowledgment of their loyalty to this government and the many kindnesses heretofore rendered by them to our citizens.

\$10,000 for presents to those Indians.

SEC. 6. *And be it further enacted*, That in adjusting the claims of half-breed Indians under the tenth article of the treaty of Prairie du Chien, of the fifteenth of July, eighteen hundred and thirty, lying within the Nemohaw reservation therein described, as surveyed by McCoy, and confirmed by section thirteen of the act entitled "An act making appropriations for sundry civil expenses of the government for the year ending the thirtieth of June, eighteen hundred and fifty-nine," approved June twelfth, eighteen hundred and fifty-eight, there shall be found a deficiency in the quantity of land necessary to carry out the intentions of said treaty, then there shall be retained out of the proceeds of that portion of the public lands excluded from said reservation, as said half-breeds claimed its boundaries by the McCoy survey and the thirteenth section of the said act of July twelfth, eighteen hundred and fifty-eight, so much money as shall equal that deficiency, estimating the same at one dollar and twenty-five cents per acre; which said sum of money shall be paid to the Secretary of the Interior, to be held by him in trust for such of said half-breeds as shall be found entitled to it, and by him be paid to them or invested for their benefit, as he shall think most judicious and proper, after the said mixed bloods shall have relinquished to the United States all their interest in and to said deficiency in said reservation.

Claims of half-breed Indians. Vol. vii. p. 330.

1858, ch. 154, § 13. *Ante*, p. 327.

SEC. 7. *And be it further enacted*, That the Commissioner of Indian Affairs, under the direction of the Secretary of the Interior, is hereby authorized and directed to prepare rules and regulations for the government of the Indian service, and for trade and intercourse with the Indian tribes and the regulations of their affairs; and when approved by the President shall be submitted to the Congress of the United States for its approval: *Provided*, That such laws, rules, and regulations proposed shall not be in force until enacted by Congress.

Rules, &c. for the Indian service &c. to be prepared and submitted to Congress.

Proviso.

SEC. 8. *And be it further enacted*, That so much of the act entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," approved June thirtieth, eighteen hundred and thirty-four, as provides that the United States shall make indemnification out of the treasury for property taken or destroyed in certain cases, by Indians trespassing on white men as described in the said act, be, and the same is hereby, repealed: *Provided, however*, That nothing herein contained shall be so construed as to impair or destroy the

Repeal of part of act of 1834, ch. 161, § 17.

Vol. iv. p. 731.

Proviso.

obligation of the Indians to make indemnification out of the annuities as prescribed in said act.

APPROVED, February 28, 1859.

March 1, 1859. CHAP. LXVIII.—*An Act to authorize the Enrollment, Registry, and License of certain Steamboats, or Vessels, owned by the Buffalo and Lake Huron Railroad Company.*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That certificates of enrollment, register, or license, shall issue for any American-built steamboat or steamboats, vessel or vessels, now owned, or which shall hereafter be owned, by the Buffalo and Lake Huron Railway Company, a corporation created under and by virtue of the laws of the State of New York, in the name of said company. on the president or secretary of said company, taking the oath required by the fourth section of the act entitled "An act to authorize the register, or enrollment and license to be issued in the name of the president or secretary of any incorporated company owning a steamboat or vessel," passed March three eighteen hundred and twenty-five. And nothing contained in said act shall be construed to prevent the oath required by the fourth section of said act from being taken by said president, or secretary, of the said Buffalo and Lake Huron Railway Company, by reason of any personal disability, or otherwise.

APPROVED, March 1, 1859.

March 3, 1859. CHAP. LXXIV.—*An Act supplemental to an Act for the Admission of the State of Minnesota into the Union.*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the judge of the district court for the district of Minnesota shall hold a term of said court in each year at the following places, to wit, at Preston, to commence on the first Monday in June, and at St. Paul on the first Monday in October;—the judge of the said court shall appoint a clerk for said district, who shall reside at and keep the records and papers of said court at either of the places herein designated for the holding of said court, as the judge, in his discretion shall direct.

APPROVED, March 3, 1859.

March 8, 1859. CHAP. LXXV.—*An Act making Appropriations for the Consular and Diplomatic Expenses of the Government for the Year ending the thirtieth of June, eighteen hundred and sixty.*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums be, and the same are hereby appropriated, out of any money in the treasury not otherwise appropriated, for the objects hereafter expressed, for the fiscal year ending the thirtieth of June, eighteen hundred and sixty, namely:—

For salaries of envoys extraordinary, ministers, and commissioners of the United States at Great Britain, France, Russia, Prussia, Spain, Austria, Brazil, Mexico, China, Chili, Peru, Portugal, Switzerland, Rome, Naples, Sardinia, Belgium, Holland, Denmark, Sweden, Turkey, Buenos Ayres, New Granada, Bolivia, Ecuador, Venezuela, Guatemala, Nicaragua, Sandwich Islands, Costa Rica, Honduras, Argentine Confederation, and Paraguay, two hundred and four thousand dollars: *Provided,* That no other ambassador, envoy extraordinary, minister plenipotentiary, minister resident, commissioner, diplomatic representative, or chargé d'affaires, shall be entitled to any compensation during the said fiscal year: *And provided,* That nothing in this act shall be construed to interfere with the



BY AUTHORITY OF CONGRESS.

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PROCLAMATIONS,  
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FROM

DECEMBER 5, 1859, TO MARCH 3, 1863.

Arranged in Chronological Order and carefully collated with the  
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WITH

REFERENCES TO THE MATTER OF EACH ACT AND TO THE SUBSEQUENT  
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VOL. XII.

BOSTON:

LITTLE, BROWN AND COMPANY.

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1863.

Suit may be brought against the United States to test the title of certain lots in Hospital Square, San Francisco.

How to be commenced.

United States to have all legal and equitable defences.

District attorney to defend such suit.

Either party may appeal.

Suit to be instituted within two years.

Proceedings if final judgment is against the United States.

day, and James Blair, and their heirs, assigns, and legal representatives be, and they are hereby, authorized to institute a suit against the United States, in the circuit court of the United States for the State of California, for the purpose of recovering from the United States, two lots of ground, numbers five and six, in the square in the city of San Francisco on which a hospital has been erected by the United States; which lots are claimed to have been acquired by the said Ames, Holladay, and Blair, by deeds executed in their favor by the sheriff of the county of San Francisco on the twenty-third day of October, eighteen hundred and fifty-one. The said suit to be commenced by citation served on the district attorney of the United States for the northern district of California: *Provided*, That the United States shall have the right in any suit so brought to defend their claim to the title and possession of said property, or any part thereof, on any legal or equitable grounds.

SEC. 2. *And be it further enacted*, That it shall be the duty of the said district attorney, under the direction and advice of the Attorney General of the United States, to defend any suit brought under the authority of the first section of this act, and to take all necessary measures at law or in equity for the protection and defence of the title to said lots.

SEC. 3. *And be it further enacted*, That either party may appeal or prosecute a writ of error to the Supreme Court of the United States from any final decision rendered by said circuit court in any suit instituted as aforesaid.

SEC. 4. *And be it further enacted*, That no suit shall be brought by virtue of the provisions of this act, unless the same be instituted within two years from the passage thereof.

SEC. 5. *And be it further enacted*, That in the event of a final judgment against the United States in any suit instituted as aforesaid, it shall be the duty of the proper officers of the United States, who may be in charge and possession of said lots in behalf of the government, to deliver up to the claimants said lots, or such parts thereof as may, by said final judgment, be decreed to belong to them; and the said circuit court is hereby authorized to issue the process necessary and proper for carrying out the provisions of this act.

APPROVED, January 26, 1861.

January 29, 1861.

CHAP. XX. — *An Act for the Admission of Kansas into the Union.*

Preamble.

Whereas the people of the Territory of Kansas, by their representatives in Convention assembled, at Wyandott, in said Territory, on the twenty-ninth day of July, one thousand eight hundred and fifty-nine, did form for themselves a constitution and State government, republican in form, which was ratified and adopted by the people at an election held for that purpose on Tuesday, the fourth day of October, one thousand eight hundred and fifty-nine, and the said Convention has, in their name and behalf, asked the Congress of the United States to admit the said Territory into the Union as a State, on an equal footing with the other States: Therefore

Kansas admitted as a State.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the State of Kansas shall be, and is hereby declared to be, one of the United States of America, and admitted into the Union on an equal footing with the original States in all respects whatever. And the said State shall consist of all the territory included within the following boundaries, to wit: Beginning at a point on the western boundary of the State of Missouri, where the thirty-seventh parallel of north latitude crosses the same; thence west on said parallel to the twenty-fifth meridian of longitude west from Washington; thence north on said meridian to the fortieth parallel of latitude; thence

Boundaries.



east on said parallel to the western boundary of the State of Missouri; thence south with the western boundary of said State to the place of beginning: *Provided*, That nothing contained in the said constitution respecting the boundary of said State shall be construed to impair the rights of person or property now pertaining to the Indians in said Territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with such Indian tribe, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any State or Territory; but all such territory shall be excepted out of the boundaries, and constitute no part of the State of Kansas, until said tribe shall signify their assent to the President of the United States to be included within said State, or to affect the authority of the Government of the United States to make any regulation respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent to make if this act had never passed.

Proviso.

Indian rights to be preserved.

SEC. 2. *And be it further enacted*, That until the next general apportionment of Representatives the State of Kansas shall be entitled to one Representative in the House of Representatives of the United States.

One representative in Congress.

SEC. 3. *And be it further enacted*, That nothing in this act shall be construed as an assent by Congress to all or to any of the propositions or claims contained in the ordinance of said constitution of the people of Kansas, or in the resolutions thereto attached; but the following propositions are hereby offered to the said people of Kansas for their free acceptance or rejection, which, if accepted, shall be obligatory on the United States and upon the said State of Kansas, to wit: First, That sections numbered sixteen and thirty-six in every township of public lands in said State, and where either of said sections or any part thereof has been sold or otherwise been disposed of, other lands, equivalent thereto and as contiguous as may be, shall be granted to said State for the use of schools. Second, That seventy-two sections of land shall be set apart and reserved for the use and support of a State University, to be selected by the Governor of said State, subject to the approval of the Commissioner of the General Land Office, and to be appropriated and applied in such manner as the Legislature of said State may prescribe for the purpose aforesaid, but for no other purpose. Third, That ten entire sections of land, to be selected by the Governor of said State, in legal subdivisions, shall be granted to said State for the purpose of completing the public buildings, or for the erection of others at the seat of government, under the direction of the Legislature thereof. Fourth, That all salt springs within said State, not exceeding twelve in number, with six sections of land adjoining or as contiguous as may be to each, shall be granted to said State for its use, the same to be selected by the Governor thereof within one year after the admission of said State, and when so selected to be used or disposed of on such terms, conditions, and regulations as the Legislature shall direct: *Provided*, That no salt spring or land, the right whereof is now vested in any individual or individuals, or which may be hereafter confirmed or adjudged to any individual or individuals, shall by this article be granted to said State. Fifth, That five per centum of the net proceeds of sales of all public lands lying within said State which shall be sold by Congress after the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to said State for the purpose of making public roads and internal improvements, or for other purposes, as the Legislature shall direct: *Provided*, That the foregoing propositions hereinbefore offered are on the condition that the people of Kansas shall provide by an ordinance, irrevocable without the consent of the United States, that said State shall never interfere with the primary disposal of the soil within the same by the United States, or with any regulations Congress may find necessary for securing the title in said soil to bona fide purchasers thereof. Sixth, And that the said State shall never tax the

Congress does not assent, &c.

Propositions to be submitted to popular vote.

School lands.

State University lands.

Lands for public buildings.

Salt springs and contiguous lands.

Proviso.

Percentage on land sales.

Proviso. Conditions on which propositions are offered.

State not to tax property of the U. S. in said State.



Proviso as to lands heretofore confirmed to the Territory of Kansas.

Laws of the United States extended to Kansas.

State made a judicial district.

Judge, attorney, and marshal; their pay.

Appeals and writs of error in Supreme Court of the United States.

Terms of District Court.

lands or the property of the United States in said State: *Provided, however,* That in case any of the lands herein granted to the State of Kansas have heretofore been confirmed to the Territory of Kansas for the purposes specified in this act, the amount so confirmed shall be deducted from the quantity specified in this act.

SEC. 4. *And be it further enacted,* That from and after the admission of the State of Kansas, as hereinbefore provided, all the laws of the United States, which are not locally inapplicable, shall have the same force and effect within that State as in other States of the Union; and the said State is hereby constituted a judicial district of the United States, within which a district court, with the like powers and jurisdiction as the district court of the United States for the district of Minnesota, shall be established; the judge, attorney, and marshal of the United States for the said district of Kansas shall reside within the same, and shall be entitled to the same compensation as the judge, attorney, and marshal of the district of Minnesota; and in all cases of appeal or writ of error heretofore prosecuted, and now pending in the Supreme Court of the United States, upon any record from the supreme court of Kansas Territory, the mandate of execution or order of further proceedings shall be directed by the Supreme Court of the United States to the district court of the United States for the district of Kansas, or to the supreme court of the State of Kansas, as the nature of such appeal or writ of error may require; and each of those courts shall be the successor of the supreme court of Kansas Territory, as to all such cases, with full power to hear and determine the same, and to award mesne or final process therein.

SEC. 5. *And be it further enacted,* That the judge of the district court for the district of Kansas shall hold two regular terms of the said court annually, at the seat of government of the said State, to commence on the second Mondays of April and October in each year.

APPROVED, January 29, 1861.

February 5, 1861.

CHAP. XXV. — *An Act to authorize the Extension and Use of a Branch of the Alexandria, Loudoun, and Hampshire Railroad within the City of Georgetown.*

Alexandria, Loudoun, and Hampshire Railroad may extend a branch road into Georgetown.

City authorities to regulate the running of the cars.

On what streets, &c., branch to be built.

Provision for land damages.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Alexandria, Loudoun, and Hampshire Railroad Company be, and they are hereby, authorized and empowered to extend a branch of their railroad into and within the city of Georgetown, in the District of Columbia, and that said company shall have and exercise the same rights and powers and be subject to the same regulations and restrictions, in regard to the construction and use of such extension, as are or may be granted and prescribed by the charter of said company in regard to the main stem of said road, or by the laws of Virginia in relation to railroads within that State.

SEC. 2. *And be it further enacted,* That the corporate authorities of the city of Georgetown shall have power to regulate the manner and speed of running the cars of said company within the limits of said city.

SEC. 3. *And be it further enacted,* That the said company shall have power to construct and operate their said extension upon such streets and public ways in said city as may be deemed most expedient by the said company, and with the consent of the corporate authorities of said city.

SEC. 4. *And be it further enacted,* That the Circuit Court of the District of Columbia, and the several officers thereof, shall have and exercise all the powers and duties in relation to the condemnation and acquisition of land or other property by the said company for the purposes of such extension of their branch as are or may be possessed and exercised by the courts of Virginia and their officers in regard to the same; and the same proceedings shall be had therein as are or may be prescribed or authorized by the laws of Virginia in such cases.

APPROVED, February 5, 1861.

BY AUTHORITY OF CONGRESS.

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VOL. XIII.

**BOSTON:**

**LITTLE, BROWN AND COMPANY.**

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1866.

SEC. 2. *And be it further resolved*, That the President of the United States be requested to communicate this resolution to Admiral Porter, and through him to the officers, seamen, and marines under his command.

APPROVED, January 24, 1865.

Communication of resolution.

[No. 9.] *Joint Resolution authorizing the Secretary of the Treasury to give the necessary Notice stipulated pending the Intention of the United States to purchase the Building known as Merchants' Exchange, New York City, now used for Custom-House Purposes.*

Jan. 25, 1865.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury be, and he is hereby, authorized to give notice to the owners of the building in New York city known as the Merchants' Exchange, and occupied as a custom-house, of the intention of the United States to purchase the same, for the sum of one million dollars, in accordance with the terms stipulated in the existing lease of the property to the government.

Notice to owners of Merchants' Exchange in New York.

APPROVED, January 25, 1865.

[No. 10.] *Joint Resolution reserving Mineral Lands from the Operation of all Acts, passed at the first Session of the Thirty-eighth Congress, granting Lands, or extending the Time of former Grants.*

Jan. 30, 1865.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That no act passed at the first session of the thirty-eighth congress, granting lands to states or corporations, to aid in the construction of roads or for other purposes, or to extend the time of grants heretofore made, shall be so construed as to embrace mineral lands, which in all cases shall be, and are, reserved exclusively to the United States, unless otherwise specially provided in the act or acts making the grant.

Grants of lands to states or corporations not to include mineral lands.

APPROVED, January 30, 1865.

[No. 11.] *A Resolution submitting to the Legislatures of the several States a Proposition to amend the Constitution of the United States.*

Feb. 1, 1865.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, (two thirds of both Houses concurring,) That the following article be proposed to the legislatures of the several states as an amendment to the constitution of the United States, which, when ratified by three fourths of said legislatures, shall be valid, to all intents and purposes, as a part of the said constitution, namely:—

Proposed amendment of the constitution.

#### ARTICLE XIII.

SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SECTION 2. Congress shall have power to enforce this article by appropriate legislation.

APPROVED, February 1, 1865.

[No. 12.] *Joint Resolution declaring certain States not entitled to Representation in the Electoral College.*

Feb. 8, 1865.

WHEREAS the inhabitants and local authorities of the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, Arkansas, and Tennessee rebelled against the government of the United States, and were in such condition on the eighth day of November, eighteen hundred and sixty-four, that no valid election for electors of President and Vice-President of the United States, according to the constitution and laws thereof, was held therein on said day: Therefore,

Preamble.

*Be it resolved by the Senate and House of Representatives of the United*



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Volume 14  
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index.  
listing of  
lands, public  
(restored)



BY AUTHORITY OF CONGRESS.

THE

**Statutes at Large, Treaties,**

AND

PROCLAMATIONS,

OF THE

UNITED STATES OF AMERICA.

FROM

DECEMBER, 1865, TO MARCH, 1867.

Arranged in Chronological Order and carefully collated with the  
Originals at Washington.

WITH

REFERENCES TO THE MATTER OF EACH ACT AND TO THE SUBSEQUENT  
ACTS ON THE SAME SUBJECT.

EDITED BY

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The rights and interest of the United States in the stereotype plates from which this work is printed are hereby recognized, acknowledged, and declared by the publishers, according to the provisions of the joint resolution of Congress, passed March 3, 1845.

VOL. XIV.

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1868.

same may be paid out of the fund for the relief of refugees and freedmen, on the approval of the commissioner of the bureau of refugees and freedmen.

APPROVED, June 15, 1866.

June 15, 1866. CHAP. CXXIV. — *An Act to facilitate commercial, postal, and military Communication among the several States.*

Preamble. Whereas the Constitution of the United States confers upon Congress, in express terms, the power to regulate commerce among the several States, to establish post roads, and to raise and support armies: Therefore: —

Steam railroads may carry over their road passengers and freight from one State to another and connect with roads of other States to form continuous lines.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That every railroad company in the United States, whose road is operated by steam, its successors and assigns, be, and is hereby, authorized to carry upon and over its road, boats, bridges, and ferries, all passengers, troops, government supplies, mails, freight, and property on their way from any State to another State, and to receive compensation therefor, and to connect with roads of other States so as to form continuous lines for the transportation of the same to the place of destination: *Provided,* That this act shall not affect any stipulation between the government of the United States and any railroad company for transportation or fares without compensation, nor impair or change the conditions imposed by the terms of any act granting lands to any such company to aid in the construction of its road, nor shall it be construed to authorize any railroad company to build any new road or connection with any other road without authority from the State in which said railroad or connection may be proposed.

Existing contracts and conditions not affected.

New roads not authorized without authority from State.

This act may be amended, &c.

SEC. 2. *And be it further enacted,* That Congress may at any time alter, amend, or repeal this act.

APPROVED, June 15, 1866.

June 18, 1866. CHAP. CXXVI. — *An Act to authorize the Commissioner of Patents to pay those employed as Examiners and Assistant Examiners the Salary fixed by Law for the Duties performed by them.*

Pay of those employed as examiners and assistant examiners in the patent office.

To be taken from patent office fund, &c.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the commissioner of patents is hereby authorized to pay those employed in the patent office from April first, eighteen [hundred] and sixty-one, until the first day of August, eighteen hundred and sixty-five, as examiners and assistant examiners of patents, at the rates fixed by law for these respective grades; *Provided,* That the same be paid out of the patent office fund, and that the compensation thus paid shall not exceed that received by those duly enrolled as examiners and assistant examiners of patents for the same period.

APPROVED, June 18, 1866.

June 21, 1866. CHAP. CXXVII. — *An Act for the Disposal of the Public Lands for Homestead Actual Settlement in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida.*

All public lands in certain States to be disposed of only according to the provisions of the homestead law. 1862, ch. 75. Vol. xii. p. 392. 1864, ch. 38. Vol. xiii. p. 35.

*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That from and after the passage of this act all the public lands in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida shall be disposed of according to the stipulations of the homestead law of twentieth May, eighteen hundred and sixty-two, entitled "An act to secure homesteads to actual settlers on the public domain," and the act supplemental thereto, approved twenty-first of March, eighteen hundred and sixty-four, but with this restriction, that until the expiration of two years from and after the passage of this

act, no entry shall be made for more than a half-quarter section, or eighty acres; and in lieu of the sum of ten dollars required to be paid by the second section of said act, there shall be paid the sum of five dollars at the time of the issue of each patent; and that the public lands in said States shall be disposed of in no other manner after the passage of this act: *Provided*, That no distinction or discrimination shall be made in the construction or execution of this act on account of race or color: *And provided further*, That no mineral lands shall be liable to entry and settlement under its provisions.

SEC. 2. *And be it further enacted*, That section second of the above-cited homestead law, entitled "An act to secure homesteads to actual settlers on the public domain," approved May twentieth, eighteen hundred and sixty-two, be so amended as to read as follows: That the person applying for the benefit of this act shall, upon application to the register of the land office in which he or she is about to make such entry, make affidavit before the said register or receiver that he or she is the head of a family, or is twenty-one years or more of age, or shall have performed service in the army or navy of the United States, and that such application is made for his or her exclusive use and benefit, and that said entry is made for the purpose of actual settlement and cultivation, and not either directly or indirectly for the use or benefit of any other person or persons whomsoever; and upon filing the said affidavit with the register or receiver, and on payment of five dollars, when the entry is of not more than eighty acres, he or she shall thereupon be permitted to enter the amount of land specified: *Provided, however*, That no certificate shall be given, or patent issued therefor, until the expiration of five years from the date of such entry; and if, at the expiration of such time, or at any time within two years thereafter, the person making such entry, or, if he be dead, his widow; or in case of her death, his heirs or devisee; or in case of a widow making such entry, her heirs or devisee, in case of her death, shall prove by two credible witnesses that he, she, or they have resided upon or cultivated the same for the term of five years immediately succeeding the time of filing the affidavit aforesaid, and shall make affidavit that no part of said land has been alienated, and that he will bear true allegiance to the government of the United States; then, in such case, he, she, or they, if at that time a citizen of the United States, shall be entitled to a patent, as in other cases provided by law: *And provided further*, That in case of the death of both father and mother, leaving an infant child or children under twenty-one years of age, the right and fee shall enure to the benefit of said infant child or children; and the executor, administrator, or guardian may, at any time within two years after the death of the surviving parent, and in accordance with the laws of the State in which such children, for the time being, have their domicile, sell said land for the benefit of said infants, but for no other purpose; and the purchaser shall acquire the absolute title by the purchase, and be entitled to a patent from the United States on the payment of the office fees and sum of money herein specified: *Provided*, That until the first day of January, eighteen hundred and sixty-seven, any person applying for the benefit of this act shall, in addition to the oath, hereinbefore required, also make oath that he has not borne arms against the United States, or given aid and comfort to its enemies.

SEC. 3. *And be it further enacted*, That all the provisions of the said homestead law, and the act amendatory thereof, approved March twenty-first, eighteen hundred and sixty-four, so far as the same may be applicable, except so far as the same are modified by the preceding sections of this act, are applied to and made part of this act as fully as if herein enacted and set forth.

APPROVED, June 21, 1866.

No entry to be for more than 80 acres.  
\$5 to be paid on issue of patent.

No distinction for race or color.

Mineral lands excepted.

Mode of procedure in applying for the benefit of this act.  
1862, ch. 75, § 2.  
Vol. xii. p. 392.

Affidavit.

Payment of \$5.

No certificate to be given nor patent to issue, until after five years from entry.

Proof of residence or cultivation, &c.

Affidavit.

When rights enure to the benefit of infant children.  
Executor, &c., may sell.

Title of purchaser.

Additional oath prior to January 1, 1867.

Provisions of homestead law, &c., made applicable hereto.



said State patents for all the lands granted and situated opposite to and within the limits of twenty miles of the line of said completed section of road or roads, and extending the length of said section, and no further, and not exceeding ten sections of land per mile for all that part of said road thus completed under the provisions of this act and the act to which this is an amendment, and so, from time to time, until said roads and branches are completed. And when the governor of said State shall so certify, and the Secretary of the Interior shall be satisfied that the whole of any one of said roads and branches is completed in a good, substantial, and workmanlike manner, as a first-class railroad, the said Secretary of the Interior shall issue to the said State patents to all the remaining lands granted for and on account of said completed road and branches in this act, situated within the said limits of twenty miles from the line thereof, throughout the entire length of said road and branches: *Provided*, That no land shall be granted or conveyed to said States under the provisions of this act on account of the construction of any railroad or part thereof that has been constructed under the provisions of any other act at the date of the passage of this act, and adopted as a part of the line of railroad provided for in this act: *And provided*, That nothing herein contained shall interfere with any existing rights acquired under any law of Congress heretofore enacted making grants of land to the said States of Missouri and Arkansas to aid in the construction of railroads: *And provided further*, That should said States or either of them fail to complete the roads herein recited within the time prescribed by this act, then the lands undisposed of, as aforesaid, within the States so failing shall revert to the United States.

Where the governor shall certify that other sections are completed;

that whole road is completed.

Lands not to be granted on account of the construction of certain railroads.

Vested rights not affected.

Lands when to revert to the United States.

SEC. 6. *And be it further enacted*, That so soon as the governor of either of said States shall file or cause to be filed with the Secretary of the Interior maps designating the routes of said roads herein mentioned, then it shall be the duty of the Secretary of the Interior to withdraw from market the lands embraced within the provisions of this act.

When maps are filed, lands to be withdrawn from market

SEC. 7. *And be it further enacted*, That nothing contained in this act shall be held as vesting in the State of Arkansas title to the lands herein recited for the trust purpose aforesaid, or authorizing said State to make any disposition of the same, until said State shall be restored in all respects to its former relation to the national government and be represented in the Congress of the United States.

Arkansas to have no title to or power over the granted lands until restored to former relations.

APPROVED, July 4, 1866.

CHAP. CLXVI. — *An Act concerning certain Lands granted to the State of Nevada.*

July 4, 1866.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the appropriation by the constitution of the State of Nevada to educational purposes of the five hundred thousand acres of land granted to said State by the law of September fourth, eighteen hundred and forty-one, for purposes of internal improvement, is hereby approved and confirmed.

Appropriation by Nevada of land for educational purposes confirmed.

SEC. 2. *And be it further enacted*, That land equal in amount to seventy-two entire sections, for the establishment and maintenance of a university in said State, is hereby granted to the State of Nevada.

Lands granted for a university;

SEC. 3. *And be it further enacted*, That the grant made by law of the second day of July, eighteen hundred and sixty-two, to each State, of land equal to thirty thousand acres for each of its senators and representatives in Congress, is extended to the State of Nevada; and the diversion of the proceeds of these lands in Nevada from the teaching of agriculture and mechanic arts to that of the theory and practice of mining is allowed and authorized without causing a forfeiture of said grant.

for an agricultural college. 1862, ch. 130. Vol. xii. p. 503. Theory and practice of mining may be taught.

SEC. 4. *And be it further enacted*, That the President of the United States, by and with the advice and consent of the Senate, shall be, and he

Surveyor-general for Nevada. Location of office. Pay. Duties, &c. Allowances.

is hereby, authorized to appoint a surveyor-general for Nevada, who shall locate his office at such place as the Secretary of the Interior shall from time to time direct, whose compensation shall be three thousand dollars per annum, and whose duties, powers, obligations, responsibilities, and allowances for clerk hire, office rent, fuel and incidental expenses shall be the same as those of the surveyor-general of Oregon, under the direction of the Secretary of the Interior, and such instructions as he may from time to time deem it advisable to give him.

Lines of subdivisions may be changed from rectangular. Mineral lands reserved.

SEC. 5. *And be it further enacted*, That in extending the surveys of the public lands in the State of Nevada, the Secretary of the Interior may, in his discretion, vary the lines of the subdivisions from a rectangular form, to suit the circumstances of the country; but in all cases lands valuable for mines of gold, silver, quicksilver, or copper shall be reserved from sale.

Public lands in the State not to be subject to entry, &c., until the State has her full quota.

1862, ch. 75. Vol. xii. p. 392.

Mode of selecting and disposing of lands by the State. City and town property. Vested rights not affected.

SEC. 6. *And be it further enacted*, That until the State of Nevada shall have received her full quota of lands named in the first, second, and third sections of this act, the public lands in that State shall not be subject to entry, sale, or location under any law of the United States, or any scrip or warrants issued in pursuance of any such law except the homestead act of May twentieth, eighteen hundred and sixty-two, and acts amendatory thereto, and the acts granting and regulating pre-emptions, but shall be reserved exclusively for entry by the said State for the period of two years after such survey shall have been made: *Provided*, That said State shall select said lands in her own name and right, in tracts of not less than forty acres, and dispose of the same in tracts not exceeding three hundred and twenty acres, only to actual settlers and bona fide occupants: *And provided further*, That city and town property shall not be subject to selection under this act: *And provided further*, That this section shall not be construed to interfere with or impair rights heretofore acquired under any law of Congress.

APPROVED, July 4, 1866.

July 4, 1866. CHAP. CLXVII. — *An Act granting Lands to the State of Oregon, to aid in the Construction of a Military Road from Corvallis to the Acquinna Bay.*

Lands granted to Oregon for a military road; how to be applied and disposed of. Lands heretofore reserved not granted hereby. Right of way.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That there be, and is hereby, granted to the State of Oregon, to aid in the construction of a military wagon road from the town of Corvallis to the Acquinna Bay, three alternate sections per mile from the unoccupied public lands, designated by odd numbers, and not more than six miles from said road: *Provided*, That the lands hereby granted shall be exclusively applied in the construction of said road, and shall be disposed of only as the work progresses; and the same shall be applied to no other purposes whatever: *And provided further*, That any and all lands heretofore reserved to the United States by act of Congress, or other competent authority, be, and the same are, reserved from the operation of this act, except so far as it may be necessary to locate the route of said road through the same, in which case the right of way is granted.

Lands, how to be disposed of. Road to be a public highway, and free to the United States.

SEC. 2. *And be it further enacted*, That the said lands hereby granted to said State shall be disposed of by the legislature thereof for the purpose aforesaid, and for no other; and the said road shall be and remain a public highway for the use of the government of the United States, free from tolls or other charges upon the transportation of any property, troops, or mails of the United States.

Construction of road.

SEC. 3. *And be it further enacted*, That said road shall be constructed with such graduation and bridges as to permit of its regular use as a wagon road, and in such other special manner as the State of Oregon may prescribe.



SEC. 4. *And be it further enacted*, That the lands hereby granted to said State shall be disposed of only in the following manner, that is to say: when the governor of said State shall certify to the Secretary of the Interior that any ten continuous miles of said road are completed, then a quantity of land hereby granted coterminous to said completed portion of said road, not to exceed thirty sections may be sold, and so from time to time until said road is completed; and if said road is not completed within five years, no further sales shall be made, and the land remaining unsold shall revert to the United States.

Lands, how to be disposed of.

Road to be completed in five years; if not, unsold lands to revert.

APPROVED, July 4, 1866.

CHAP. CLXVIII. — *An Act making an additional Grant of Lands to the State of Minnesota, in alternate Sections, to aid in the Construction of Railroads in said State.*

July 4, 1866.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That there be, and is hereby, granted to the State of Minnesota, for the purpose of aiding in the construction of a railroad from Houston, in the county of Houston, through the counties of Fillmore, Mower, Freeborn, and Faribault, to the western boundary of the State; and also for a railroad from Hastings, through the counties of Dakota, Scott, Carver, and McLeod, to such point on the western boundary of the State as the legislature of the State may determine, every alternate section of land designated by odd numbers to the amount of five alternate sections per mile on each side of said road; but in case it shall appear that the United States have, when the lines or route of said roads are definitely located, sold any section, or part thereof, granted as aforesaid, or that the right of pre-emption or homestead settlement has attached to the same, or that the same has been reserved by the United States for any purpose whatever, then it shall be the duty of the Secretary of the Interior to cause to be selected, for the purposes aforesaid, from the public lands of the United States nearest to the tiers of sections above specified, so much land in alternate sections or parts of sections, designated by odd numbers, as shall be equal to such lands as the United States have sold, reserved, or otherwise appropriated, or to which the right of homestead settlement or pre-emption has attached as aforesaid, which lands, thus indicated by odd numbers and sections, by the direction of the Secretary of the Interior, shall be held by said State of Minnesota for the purposes and uses aforesaid: *Provided*, That the land so selected shall in no case be located more than twenty miles from the lines of said road: *And provided further*, That no land shall be granted or transferred by the provisions of this act not included within the jurisdiction of the State of Minnesota: *And provided further*, That any and all lands heretofore reserved to the United States by any act of Congress, or in any other manner by competent authority, for the purpose of aiding in any object of internal improvement, or other purpose whatever, be, and the same are hereby, reserved and excepted from the operations of this act, except so far as it may be found necessary to locate the route of said road through such reserved lands, in which case the right of way shall be granted, provided the United States has yet in possession the title thereto.

Additional grants of lands to Minnesota for railroads.  
Description of railroads.

If lands have been disposed of, &c., other lands to be selected in lieu thereof;

but within twenty miles of lines of road, and the jurisdiction of Minnesota.

Reserved lands not granted.

Right of way.

SEC. 2. *And be it further enacted*, That the sections and parts of sections of land which by such grant shall remain to the United States within ten miles on each side of said road shall not be sold for less than double the minimum price of public lands when sold, nor shall any of said lands become subject to sale at private entry until the same shall have been first offered at public sale to the highest bidder at or above the minimum price as aforesaid: *Provided*, That actual bona fide settlers under the pre-emption laws of the United States may, after due proof of settlement, improvement, and occupation as now provided by law, purchase the same at the increased minimum price: *And provided also*, That settlers under the pro-

Price of lands remaining to the United States.

Lands to be first offered at public sale.

Pre-emption settlers.

Homestead settlers.



visions of the homestead law who shall make entries after the passage of this act, upon the sections numbered by even numbers, and who comply with the terms and requirements of said act shall be entitled to patents for an amount not exceeding eighty acres each, anything in this act to the contrary notwithstanding.

Lands granted,  
how to be dis-  
posed of.

Railroads to  
be public high-  
ways, and free to  
the United  
States.

Lands, how to  
be disposed of.  
When gov-  
ernor shall certi-  
fy that a section  
of ten consecu-  
tive miles is  
completed;

proviso;

that another  
section of ten  
consecutive  
miles is com-  
pleted;  
that additional  
sections are com-  
pleted;  
that roads are  
completed.  
Roads to be  
completed in ten  
years; if not, un-  
sold lands to re-  
vert to the United  
States.

When maps  
are filed, lands  
granted hereby  
to be withdrawn  
from market.

Mail to be car-  
ried over road,  
and at what  
price.

SEC. 3. *And be it further enacted*, That the lands hereby granted shall be subject to the disposal of the legislature of Minnesota for the purposes aforesaid and no other; and the said railroad shall be and remain public highways for the use of the government of the United States, free of all toll or other charges upon the transportation of any property or troops of the United States, and the same shall at all times be transported at the cost, charge, and expense in all respects of the company or corporation, or their successors or assigns, having or receiving the benefit of the land grants herein made.

SEC. 4. *And be it further enacted*, That the lands hereby granted shall be disposed of by said State for the purposes aforesaid only, and in manner following, namely: When the governor of said State shall certify to the Secretary of the Interior that any section of ten consecutive miles of said road is completed, in a good, substantial, and workmanlike manner, as a first-class railroad, then the Secretary of the Interior shall issue to the State patents for all the lands in alternate sections, or parts of sections, designated by odd numbers, situated within twenty miles of the road so completed and lying coterminous to said completed section of ten miles, and not exceeding one hundred sections, for the benefit of the road having completed the ten consecutive miles as aforesaid: *Provided, however*, That the coterminous principle hereby applied shall not extend to such lands as are taken by the said railroad companies to make up deficiencies, provided that no land to make up such deficiencies shall be taken at any point within ten miles upon each side of the line of said roads. When the governor of said State shall certify that another section of ten consecutive miles shall have been completed as aforesaid, then the Secretary of the Interior shall issue patents to said State in like manner for a like number; and when certificates of the completion of additional sections of ten consecutive miles of said roads are from time to time made as aforesaid, additional sections of lands shall be patented as aforesaid, until said roads are completed, when the whole of the lands hereby granted shall be patented to the State for the uses aforesaid, and none other: *Provided*, That if said roads are not completed within ten years from the acceptance of this grant, the said lands hereby granted and not patented shall revert to the United States.

SEC. 5. *And be it further enacted*, That as soon as the governor of said State shall file or cause to be filed with the Secretary of the Interior maps designating the routes of said roads, then it shall be the duty of the Secretary of the Interior to withdraw from market the lands embraced within the provisions of this act.

SEC. 6. *And be it further enacted*, That the United States mail shall be transported on said road, under the direction of the Post Office Department, at such price as Congress may by law provide: *Provided*, That until such price is fixed by law, the Postmaster-General shall have power to fix the rate of compensation.

APPROVED, July 4, 1866.

July 4, 1866.

CHAP. CLXIX. — *An Act to provide for the Disposal of certain Lands therein named.*

Unsold lots of  
Fort Howard  
Military reserve  
to be offered at  
public auction.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Commissioner of the General Land Office be, and he is hereby, authorized to cause to be offered at public auction all the unsold lots of that portion of the public domain known as the Fort Howard Military Reserve, which is situated in the county of Brown, and State of Wisconsin, giving not less than two

last day shall fall on a Sunday, Christmas day, or on any day appointed by the President of the United States as a day of public fast or thanksgiving, or on the Fourth of July, in which case the time shall be reckoned exclusive of that day also.

SEC. 49. *And be it further enacted*, That all the jurisdiction, power, and authority conferred upon and vested in the District Court of the United States by this act in cases in bankruptcy are hereby conferred upon and vested in the Supreme Court of the District of Columbia, and in and upon the supreme courts of the several Territories of the United States, when the bankrupt resides in the said District of Columbia or in either of the said Territories. And in those judicial districts which are not within any organized circuit of the United States, the power and jurisdiction of a circuit court in bankruptcy may be exercised by the district judge.

Jurisdiction of United States courts in the District of Columbia and Territories.

In districts not in organized circuits, judge to exercise power of circuit court.

SEC. 50. *And be it further enacted*, That this act shall commence and take effect as to the appointment of the officers created hereby, and the promulgation of rules and general orders, from and after the date of its approval: *Provided*, That no petition or other proceeding under this act shall be filed, received, or commenced before the first day of June, anno Domini, eighteen hundred and sixty-seven.

When act to take effect.

Proviso.

APPROVED, March 2, 1867.

CHAP. CLXXVII. — *An Act for the Relief of the Inhabitants of Cities and Towns upon the Public Lands.* March 2, 1867.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That whenever any portion of the public lands of the United States have been or shall be settled upon and occupied as a town site, and therefore not subject to entry under the agricultural pre-emption laws, it shall be lawful, in case such town shall be incorporated, for the corporate authorities thereof, and if not incorporated, for the judge of the county court for the county in which such town may be situated, to enter at the proper land office, and at the minimum price, the land so settled and occupied, in trust for the several use and benefit of the occupants thereof, according to their respective interests; the execution of which trust, as to the disposal of the lots in such town, and the proceeds of the sales thereof, to be conducted under such rules and regulations as may be prescribed by the legislative authority of the State or Territory in which the same may be situated: *Provided*, That the entry of the land intended by this act to be made shall be made, or a declaratory statement of the purpose of the inhabitants to enter it as a town site under this act shall be filed with the register of the proper land office, prior to the commencement of the public sale of the body of land in which it is included, and that the entry or declaratory statement shall include only such lands as is actually occupied by the town and the title to which is in the United States. If upon surveyed lands the entry shall in its exterior limit be made in conformity to the legal subdivisions of the public lands authorized by the act of twenty-fourth April, one thousand eight hundred and twenty; and where the inhabitants are in number one hundred and less than two hundred, shall embrace not exceeding three hundred and twenty acres; and in cases where the inhabitants of such town are more than two hundred and less than one thousand, shall embrace not exceeding six hundred and forty acres; and where the number of inhabitants is one thousand and over one thousand, shall embrace not exceeding twelve hundred and eighty acres: *Provided*, That for each additional one thousand inhabitants, not exceeding five thousand in all, a further grant of three hundred and twenty acres shall be allowed: *And provided further*, That in any Territory in which a land office may not have been established, declaratory statements as hereinbefore provided

Town authorities, &c. may enter public lands occupied as town sites, at minimum price, in trust, &c.

Trust, how executed.

Entry, &c. when to be made;

to include what;

upon surveyed lands. 1820, ch. 51. Vol. iii. p. 566

Amount of land that may be entered.

Proviso.

Where there is no land office, statements to be filed where.

may be filed with the surveyor-general of the surveying district in which the lands are situate, who shall transmit said declaratory statement to the general land office: *And provided, further,* That any act of said trustees not made in conformity to the rules and regulations herein alluded to shall be void; effect to be given to the foregoing provisions according to such regulations as may be prescribed by the Secretary of the Interior: *And provided further,* That the provisions of this act shall not apply to military or other reservations heretofore made by the United States, nor to reservations for lighthouses, custom-houses, mints, or such other public purposes as the interests of the United States may require, whether held under reservations through the land office by title derived from the Crown of Spain, or otherwise: *And provided further,* That no title shall be acquired, under the provisions of this act, to any mine of gold, silver, cinnamon, or copper.

APPROVED, March 2, 1867.

March 2, 1867. CHAP. CLXXVIII. — *An Act allowing the Duties on foreign Merchandise imported into the Port of Albany to be secured and paid at that Place.*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That Albany, in the State of New York, and within the collection district of New York, be, and is hereby, declared to be a port of delivery within the aforesaid district; and there shall be appointed a surveyor of customs, to reside at said port, who shall, in addition to the customary duties performed by that officer in other places, perform the duties prescribed in an act entitled "An act allowing the foreign merchandise imported into Pittsburg, Wheeling, Cincinnati, Louisville, Saint Louis, Nashville, and Natchez, to be secured and paid at those places," approved March two, eighteen hundred and thirty-one. The said surveyor, before taking the oath of office, shall give security to the United States for the faithful performance of his duties in the sum of ten thousand dollars, and shall receive, in addition to the customary fees and emoluments of his office, an annual salary of six hundred dollars.

SEC. 2. *And be it further enacted,* That the same privileges granted to the ports of delivery mentioned in the first section of this act, and the restrictions created by the said act, are hereby extended and made applicable to all goods, wares, and merchandise imported into the United States at any port of entry and destined to said port of Albany.

SEC. 3. *And be it further enacted,* That the Secretary of the Treasury shall be, and he is hereby, authorized to extend the privileges of the warehouse acts of August six, eighteen hundred and forty-six, and March twenty-eight, eighteen hundred and fifty-four, and the regulations of the Treasury Department relating thereto, to the said port of Albany.

APPROVED, March 2, 1867.

March 2, 1867. CHAP. CLXXIX. — *An Act to create the Office of Surveyor-General in the Territory of Montana, and establish a Land Office in the Territories of Montana and Arizona.*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President, by the advice and consent of the Senate, shall be, and he is hereby, authorized to appoint a surveyor-general for Montana, whose annual salary shall be three thousand dollars, and whose power, authority, and duties shall be the same as those provided by law for the surveyor-general of Oregon. He shall have proper allowances for clerk hire, office rent and fuel, what is now allowed by law to the surveyor-general of Oregon.

SEC. 2. *And be it further enacted,* That the public lands within the Territories of Montana and Arizona, to which the Indian title is or shall be extinguished, shall each respectively constitute a new land district to



BY AUTHORITY OF CONGRESS.

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THE  
**Statutes at Large, Treaties,**  
AND  
PROCLAMATIONS,  
OF THE  
UNITED STATES OF AMERICA.

FROM

DECEMBER 1867, TO MARCH 1869.

*Arranged in Chronological Order and carefully collated with the  
Originals at Washington.*

WITH

REFERENCES TO THE MATTER OF EACH ACT AND TO THE SUBSEQUENT  
ACTS ON THE SAME SUBJECT.

EDITED BY

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VOL. XV.

BOSTON:  
LITTLE, BROWN, AND COMPANY.  
1869.

CHAP. LIII. — *An Act to amend an Act entitled "An Act for the Relief of the Inhabitants of Cities and Towns upon the public Lands," approved March two, eighteen hundred and sixty-seven.*

June 8, 1868.  
1867, ch. 177  
Vol. xiv. p. 641.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the inhabitants of any town located on the public land of the United States may avail themselves, if the town authorities elect so to do, of the provisions of the act of March two, eighteen hundred and sixty-seven, entitled "An act for the relief of the inhabitants of cities and towns upon the public lands:" *Provided,* This act shall not prevent the issuance of patents to persons who have made, or may make, entries and elect to proceed under existing laws: *And provided further,* That no title under said act of March two, eighteen hundred and sixty-seven, shall be acquired to any valid mining claim or possession held under the existing laws of Congress: *Provided also,* That in addition to the minimum price of the lands included in any town site entered under the provisions of this act and "An act for the relief of the inhabitants of cities and towns upon the public lands," approved March two, eighteen hundred and sixty-seven, there shall be paid by the parties availing themselves of the provisions of said acts all costs of surveying and platting any such town site, and expenses incident thereto, incurred by the United States, before any patent shall issue therefor.

Inhabitants of towns, &c. may enter public lands occupied as town sites at minimum price, &c. if authorities so elect to do.

Patents to issue to those making entries under existing laws.

No title given to valid mining claim.

Costs of survey, &c. to be paid.

APPROVED, June 8, 1868.

CHAP. LIV. — *An Act to extend the Time for completing the military Road authorized by an Act entitled "An Act granting Lands to the States of Michigan and Wisconsin to aid in the Construction of a military Road from Fort Wilkins, Copper Harbor, Kewenaw County, in the State of Michigan, to Fort Howard, Green Bay, in the State of Wisconsin."*

June 8, 1868.  
1863, ch. 104.  
Vol. xii. p. 797.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the time for completing the military road, and for the sales of lands, authorized by an act entitled "An act granting lands to the States of Michigan and Wisconsin to aid in the construction of a military road from Fort Wilkins, Copper Harbor, Kewenaw county, in the State of Michigan, to Fort Howard, Green Bay, in the State of Wisconsin," approved March third, eighteen hundred and sixty-three, be, and the same is hereby, extended to March first, eighteen hundred and seventy.

Time of completing military road, &c. extended.

APPROVED, June 8, 1868.

CHAP. LV. — *An Act to further provide for giving Effect to the various Grants of public Lands to the State of Nevada.*

June 8, 1868.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the State of Nevada is authorized to select the alternate even-numbered sections within the limits of any railroad grant in said State, in satisfaction, in whole or in part, of the several grants made in the following acts of Congress, to wit: the act organizing the Territory of Nevada, passed March second, eighteen hundred and sixty-one; the act admitting the State of Nevada into the Union, passed March twenty-one, eighteen hundred and sixty-four; and the act concerning certain lands granted to Nevada, passed July fourth, eighteen hundred and sixty-six: *Provided,* That this privilege shall not extend to lands upon which there may be rightful claims under the pre-emption and homestead laws: *And provided,* That if lands be selected, the minimum price of which is two dollars and fifty cents per acre, each acre so selected shall be taken by the State in satisfaction of two acres, the minimum price of which is one dollar and twenty-five cents per acre: *And provided further,* That the lands granted in the eighth and ninth sections of the said act admitting Nevada into the Union shall be selected within four years from the passage of this act, and the period for the selection of said lands is hereby so extended.

Selection of lands by Nevada under railroad grants by Congress.

1864, ch. 36.  
Vol. xiii. p. 30.  
1866, ch. 166.  
Vol. xiv. p. 85.

Pre-emption and homestead.

Land taken at minimum price of \$ 2.50 per acre to equal two acres at \$ 1.25 per acre.

Certain selections when to be made.



under existing laws, to continue until said boards shall be legally organized.

SCHUYLER COLFAX,  
*Speaker of the House of Representatives.*  
 B. F. WADE,  
*President of the Senate pro tempore.*

Indorsed by the President: "Received June 16, 1868."

[NOTE BY THE DEPARTMENT OF STATE. — The foregoing act having been presented to the President of the United States for his approval, and not having been returned by him to the House of Congress in which it originated within the time prescribed by the Constitution of the United States, has become a law without his approval.]

July 3, 1868. CHAP. CXVIII. — *An Act for holding Terms of the District Court of the United States for the southern District of Illinois at the City of Cairo, in said State.*

Terms of district court in southern district of Illinois.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, in addition to the terms of the district court of the United States for the southern district of Illinois, now required by law to be held at the city of Springfield, terms of said court shall hereafter be held at the city of Cairo, in said State, commencing on the first Mondays of March and October in each year.

APPROVED, July 3, 1868.

July 4, 1868. CHAP. CXXXI. — *An Act confirming the Title to a Tract of Land in Burlington, Iowa.*

Title of the United States to certain land in Burlington, Iowa, confirmed to the "Independent School District."

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That all of the title of the United States in and to a certain tract of land in the city of Burlington, Des Moines county, in the State of Iowa, described as being west of lot number nine hundred and seventy-eight in said city, south of Valley Street, west of Boundary Street, and north of Market Street, and which was originally reserved from sale by the United States and dedicated to public burial purposes, be, and the same is hereby, confirmed to and vested in the "Independent School District" of said city, to be forever dedicated to and used by said school district for public school purposes and for no other use or purpose whatever.

APPROVED, July 4, 1868.

July 6, 1868. CHAP. CXXXIV. — *An Act to authorize the Construction of a Bridge over the Black River, in Lorain County, Ohio.*

Bridge across Black River in Lorain County, Ohio.

Draw.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That it shall be lawful for the county commissioners of the county of Lorain and State of Ohio to build a bridge across the Black River near the village of Black River, in said county, at the point where the county road leading east from said village crosses said stream: *Provided,* That there shall be placed in said bridge a draw of not less than one hundred and forty feet in width, with a centre abutment not to exceed twenty-five feet wide and ten feet above the water-line, leaving a passage on each side of the abutment of not less than fifty-seven feet in width, and so constructed as not to impede the navigation of said river, and allow the easy passage of vessels through said bridge.

Act may be altered, &c.

SEC. 2. *And be it further enacted,* That the right to alter or amend this act, so as to prevent or remove all material obstructions to the navigation of said river by the construction of said bridge, is hereby expressly reserved.

APPROVED, July 6, 1868.



Right of ex-  
patriation de-  
clared.

Protection to  
naturalized citi-  
zens in foreign  
states.

Release of citi-  
zens imprisoned  
by foreign gov-  
ernments to be  
demanded.

Facts to be  
communicated  
to Congress.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That any declaration, instruction, opinion, order, or decision of any officers of this government which denies, restricts, impairs, or questions the right of expatriation, is hereby declared inconsistent with the fundamental principles of this government.

SEC. 2. *And be it further enacted,* That all naturalized citizens of the United States, while in foreign states, shall be entitled to, and shall receive from this government, the same protection of persons and property that is accorded to native-born citizens in like situations and circumstances.

SEC. 3. *And be it further enacted,* That whenever it shall be made known to the President that any citizen of the United States has been unjustly deprived of his liberty by or under the authority of any foreign government, it shall be the duty of the President forthwith to demand of that government the reasons for such imprisonment, and if it appears to be wrongful and in violation of the rights of American citizenship, the President shall forthwith demand the release of such citizen, and if the release so demanded is unreasonably delayed or refused, it shall be the duty of the President to use such means, not amounting to acts of war, as he may think necessary and proper to obtain or effectuate such release, and all the facts and proceedings relative thereto shall as soon as practicable be communicated by the President to Congress.

APPROVED, July 27, 1868.

July 27, 1868.

CHAP. CCL.—*An Act to establish a new Land District in the State of Nebraska.*

Grand Island  
land district es-  
tablished in Ne-  
braska.  
Boundaries, &c.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That all that portion of the Omaha land district in the State of Nebraska included within the following limits, to wit: On the east by the line dividing ranges six and seven east; on the north by the line dividing townships twenty and twenty-one north; on the south by the south bank of the Platte River; and on the west by the west boundary of the State, shall constitute an additional land district, to be called the "Grand Island" district, the location of the office for which shall be designated by the President of the United States, and shall by him, from time to time, be changed as the public interest may seem to require.

Register and  
receiver.

SEC. 2. *And be it further enacted,* That the President be, and is hereby, authorized to appoint, by and with the advice and consent of the Senate, a register and a receiver for said land district, who shall be required to reside at the site of their office, have the same powers, responsibilities, and emoluments, and be subject to the same acts and penalties which are or may be prescribed by law in relation to other land officers in said State.

Lands therein,  
not reserved, to  
be exposed to  
sale.

SEC. 3. *And be it further enacted,* That the President is hereby authorized to cause the public lands in said district, with the exception of such as may have been or may be reserved for other purposes, to be exposed to sale in the same manner and upon the same terms and conditions as other public lands of the United States: *Provided,* That all sales and locations made at the office of the old district of lands situated within the limits of the new district which shall be valid and right in other respects, up to the day on which the new office shall go into operation, be, and the same are hereby, confirmed.

Proviso.

APPROVED, July 27, 1868.

BY AUTHORITY OF CONGRESS.

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VOL. XVI.

BOSTON:  
LITTLE, BROWN, AND COMPANY.  
1871.



er of the general land office, within twelve months from the approval of this act: *Provided*, That nothing in this act shall be so construed as to confirm any entries which have heretofore been annulled and vacated by said commissioner, on account of fraud, evasion of law, or other special cause: *And provided further*, That this act shall not affect the rights of subsequent purchasers in good faith.

Provisos.

APPROVED, July 1, 1870.

CHAP. CXCII. — *An Act to repeal certain Sections of Acts passed by the territorial Legislature of Wyoming.*

July 1, 1870.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sections of acts, passed by the legislature of the Territory of Wyoming, to wit: The fourth and sixth sections of an act entitled "An act providing for the collection of taxes heretofore assessed and levied in this Territory"; also sections forty-nine to fifty-nine, both inclusive, of an act entitled "An act to create and regulate corporations," be, and the same are hereby, disapproved, repealed, and declared null and void.

Sections of certain acts of the legislature of Wyoming declared null.

APPROVED, July 1, 1870.

CHAP. CXCIII. — *An Act for the Relief of the Inhabitants of Salt Lake City, in the Territory of Utah.*

July 1, 1870.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the words "not exceeding five thousand in all," contained in an act entitled "An act for the relief of the inhabitants of cities and towns upon the public lands," approved March two, eighteen hundred and sixty-seven, shall not apply to Salt Lake City, in the Territory of Utah; but said act shall be so amended and construed in its application to said city that lands may be entered as provided in said act for the full number of inhabitants contained in said city not exceeding fifteen thousand; and as the said city covers school section number thirty-six, in township number one north, of range number one west, the same may be embraced in such entry, and indemnity shall be given therefor when a grant shall be made by Congress of sections sixteen and thirty-six, in the Territory of Utah, for school purposes.

Authorities of Salt Lake City may enter public lands and to what amount under act 1867, ch. 177. Vol. xiv. p. 541.

School section may be included.

Indemnity therefor.

APPROVED, July 1, 1870.

CHAP. CXCIV. — *An Act to amend an Act entitled "An Act to carry into Effect Provisions of the Treaties between the United States, China, Japan, Siam, Persia, and other Countries, giving certain judicial Powers to Ministers and Consuls and other Functionaries of the United States in those Countries, and for other Purposes," approved June twenty-second, eighteen hundred and sixty.*

July 1, 1870.

1860, ch. 179. Vol. xii. p. 72.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the act of Congress entitled "An act to carry into effect provisions of the treaties between the United States, China, Japan, Siam, Persia, and other countries, giving certain judicial powers to ministers and consuls, or other functionaries of the United States in those countries, and for other purposes," approved June twenty-second, eighteen hundred and sixty, as far as the same is in conformity with the stipulations of the treaty with Madagascar, is hereby extended to that country, and it shall be executed in conformity with the provisions of the treaty and the usages of Christian nations in such cases; and the act shall, in the same manner, extend to any country of like character with which the United States may hereafter enter into treaty relations.

Act giving certain judicial powers to ministers and consuls extended to Madagascar, and how to be executed; Vol. xv. p. 491.

extended to certain other countries.

SEC. 2. *And be it further enacted*, That the superior judicial authority conferred on the consul-general or consul residing at the capital of any country mentioned in such act, or herein provided for, including the power to make decrees and regulations, is hereby vested in the Secretary of State for the time being.

Certain superior judicial authority vested in the Secretary of State.



sentation in Congress.

Right of the people of Georgia to elect members of assembly not affected hereby.

Term of office of any officer not affected.

Repeal of part of act 1867, ch. 170, § 6. Vol. xiv. p. 487. prohibiting the organization, &c. of the militia forces in certain States.

fifteenth articles of amendments to the Constitution of the United States having been ratified in good faith by a legal legislature of said State, it is hereby declared that the State of Georgia is entitled to representation in the Congress of the United States. But nothing in this act contained shall be construed to deprive the people of Georgia of the right to an election for members of the general assembly of said State, as provided for in the Constitution thereof; and nothing in this or any other act of Congress shall be construed to affect the term to which any officer has been appointed or any member of the general assembly elected as prescribed by the Constitution of the State of Georgia.

SEC. 2. *And be it further enacted*, That so much of the act entitled "An act making appropriations for the support of the army for the year ending June thirty, eighteen hundred and sixty-eight, and for other purposes," approved March two, eighteen hundred and sixty-seven, as prohibits the organization, arming, or calling into service of the militia forces in the States of Georgia, Mississippi, Texas, and Virginia, be, and the same is hereby, repealed.

APPROVED, July 15, 1870.

July 15, 1870.

CHAP. CCC. — *An Act to provide for Inventories and Accounts of the Property of the United States in the public Buildings and Grounds belonging to the United States in the District of Columbia.*

Inventories of the property of the United States in the rooms occupied by the several departments to be taken and kept.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That it shall be the duty of the Secretary of State, the Secretary of the Treasury, the Secretary of the Interior, the Secretary of War, the Secretary of the Navy, the Post-Master-General, and the Adjutant-General, and the commissioner of agriculture, each severally as soon as practicable to make a full and complete inventory of all of the property belonging to the United States in the buildings, rooms, offices, and grounds occupied by each of them, and under their charge. And hereafter to keep in proper books such inventories and accounts, adding thereto an account of such property as may be procured subsequently to the taking of the same; and also an account of the sale or disposal of any of such property.

Architect of Capitol to make a certain inventory.

SEC. 2. *And be it further enacted*, That the architect of the Capitol extension shall make out an inventory, and keep a like account thereof, as provided in section one of this act, of all property in and about the Capitol, and Botanical Garden, and the President's house and grounds.

Annual report thereof to Congress.

SEC. 2. *And be it further enacted*, That it shall be the duty of the officers hereinbefore required to make and keep such inventories and accounts, to make out an annual report thereof on the first day of December to Congress: *Provided*, That this law shall not apply to the books, pamphlets, papers, and documents in the library of Congress, nor to the supplies of stationery and fuel in the several public offices and buildings, which shall be accounted for as now provided for by law.

Certain items not to be included.

APPROVED, July 15, 1870.

July 15, 1870.

CHAP. CCCI. — *An Act to confirm Title to certain Lands in Illinois.*

Title of the United States to certain lots, &c. in St. Clair county, Illinois, confirmed to said county.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the title of the United States to all lots, out-lots, tracts, pieces, parcels, and strips of land in St. Clair county, State of Illinois, lying and situate outside of the United States surveys as noted in the field-notes of the United States surveyors, and on the Mississippi river near surveys seven hundred and sixty-six, six hundred and twenty-four, and five hundred and seventy-nine, and near and adjacent to fractional sections one, two, eleven, and twelve,

town[ship] one north, range ten west, third principal meridian, be, and the same is hereby, confirmed and granted to said St. Clair county, in said State: *Provided*, That nothing herein shall apply to the ancient French commons in said county.

[Amended, 1871, ch. 58. Post, p. 416.] Proviso.

APPROVED, July 15, 1870.

CHAP. CCCII. — *An Act to provide for the Reports of the Receipts and Expenditures of the Secretary of the Senate and the Clerk of the House of Representatives of the United States, and for other Purposes.*

July 15, 1870.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That it shall be the duty of the secretary of the Senate and the clerk of the House of Representatives of the United States severally to report to Congress on the first day of each regular session, and at the expiration of their terms of service, a full and complete statement of all their receipts and expenditures as such officers, showing in detail the items of expense, and classifying them under the proper appropriations, showing the aggregate thereof, and exhibiting in a clear and concise manner the exact condition of all public moneys by them received, paid out, and in their possession as such officers.

Secretary of Senate and clerk of the House of Representatives to report to Congress their receipts and expenditures in detail, &c.

SEC. 2. *And be it further enacted*, That it shall be the duty of the officers hereinbefore named, and of the sergeant-at-arms, postmasters of the Senate and House of Representatives, and the doorkeeper of the House of Representatives, to make out a full and complete account of all the property belonging to the United States in their possession, at such dates and at the expiration of their terms of service, as provided in section one of this act.

They and the sergeant-at-arms, postmasters, and doorkeeper to make full account of the property of the United States in their possession.

APPROVED, July 15, 1870.

CHAP. CCCIII. — *An Act donating for School Purposes a certain Lot of Land with the Building thereon erected, known as the Old Indian Dormitory, in the Village of Mackinac, Michigan.*

July 15, 1870.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury be, and he is hereby, authorized and required to grant and convey to the trustees of the public schools for the village of Mackinac, Michigan, all the right, title, and interest of the United States in and to a certain inclosed lot of land with the building thereon erected, known as the Old Indian Dormitory, situate in the said village of Mackinac, to be used for school purposes only. And whenever the same shall be converted to other uses, it shall revert to the United States.

Right of the United States to a lot of land in Mackinac given to the trustees of public schools in that place.

To revert if, &c.

APPROVED, July 15, 1870.

CHAP. CCCIV. — *An Act for the Creation of an additional Land District in the State of California.*

July 15, 1870.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That so much of the districts of lands now subject to sale at Humboldt and Marysville, in the State of California, as are contained within the following boundaries, shall constitute a new land district, to be called the Shasta district, bounded as follows: On the north and east by the boundary lines of the State; on the south by the fifth standard parallel north; and on the west by the line between ranges ten and eleven west of the Mount Diablo base and meridian, the location of the office for which shall be designated by the President of the United States, and may be changed by him from time to time, as the public interest may seem to require.

Shasta land district in California established.

Boundaries.

BY AUTHORITY OF CONGRESS.

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VOL. XVII.

BOSTON:  
LITTLE, BROWN, AND COMPANY.  
1873.



fed person: *Provided*, That all the persons availing themselves of the provisions of this section shall be required to pay, and there shall be collected from them, at the time of making payment for their land, interest on the total amounts paid by them, respectively, at the rate of five per centum per annum, from the date at which they would have been required to make payment under the act of July fifteenth, eighteen hundred and seventy, until the date of actual payment: *Provided further*, That the twelfth section of said act of July sixteenth, eighteen hundred and seventy, is hereby so amended that the aggregate amount of the proceeds of sale received prior to the first day of March of each year shall be the amount upon which the payment of interest shall be based.

Five per cent interest to be paid on what sum and for what time.

Settler, transferring claims prior to, &c., not precluded from entering upon another tract, if, &c.

Certain restrictions of the pre-emption laws not to apply.

SEC. 3. That the sale or transfer of his or her claim upon any portion of these lands by any settler prior to the issue of the commissioner's instructions of April twenty-sixth, eighteen hundred and seventy-one, shall not operate to preclude the right of entry, under the provisions of this act, upon another tract settled upon subsequent to such sale or transfer: *Provided*, That satisfactory proof of good faith be furnished upon such subsequent settlement: *Provided further*, That the restrictions of the pre-emption laws relating to previous enjoyment of the pre-emption right, to removal from one's own land in the same State, or the ownership of over three hundred and twenty acres, shall not apply to any settler actually residing on his or her claim at the date of the passage of this act.

APPROVED, May 9, 1872.

CHAP. CLII. — *An Act to promote the Development of the mining Resources of the United States.*

May 10, 1872.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That all valuable mineral deposits in lands belonging to the United States, both surveyed and unsurveyed, are hereby declared to be free and open to exploration and purchase, and the lands in which they are found to occupation and purchase, by citizens of the United States and those who have declared their intention to become such, under regulations prescribed by law, and according to the local customs or rules of miners, in the several mining-districts, so far as the same are applicable and not inconsistent with the laws of the United States.

See 1873, ch. 159. Post, p. 465.

Valuable mineral deposits in public lands and the lands to be open to citizens, &c.

SEC. 2. That mining-claims upon veins or lodes of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits heretofore located, shall be governed as to length along the vein or lode by the customs, regulations, and laws in force at the date of their location. A mining-claim located after the passage of this act, whether located by one or more persons, may equal, but shall not exceed, one thousand five hundred feet in length along the vein or lode; but no location of a mining-claim shall be made until the discovery of the vein or lode within the limits of the claim located. No claim shall extend more than three hundred feet on each side of the middle of the vein at the surface, nor shall any claim be limited by any mining regulation to less than twenty-five feet on each side of the middle of the vein at the surface, except where adverse rights existing at the passage of this act shall render such limitation necessary. The end-lines of each claim shall be parallel to each other.

Length of mining-claims upon veins or lodes;

width;

end-lines.

SEC. 3. That the locators of all mining locations heretofore made, or which shall hereafter be made, on any mineral vein, lode, or ledge, situated on the public domain, their heirs and assigns, where no adverse claim exists at the passage of this act, so long as they comply with the laws of the United States, and with State, territorial, and local regulations not in conflict with said laws of the United States governing their possessory title, shall have the exclusive right of possession and enjoyment of all the surface included within the lines of their locations, and of all veins, lodes, and ledges throughout their entire depth, the top or apex of which

Locators of mining locations where there is no adverse claim, &c., to have what exclusive rights of possession and enjoyment.

Certain exclusive rights to locators of mining claims.

**Limitations.**

Owners of tunnels to have what rights of possession of certain veins or lodes.

What to be deemed an abandonment of right by owners of tunnels.

Miners may make certain rules as to locations, &c., of mining-claims.

Requirements as to locations; records;

amount of work necessary to hold possession.  
See 1873, ch. 214.  
*Post*, p. 483.

Mine to be open to relocation, if, &c.

Rights of co-owners.

Interest of delinquents after notice, &c., to belong to co-owners.

Patent for land claimed, &c., for valuable deposits, how to be obtained.

lies inside of such surface-lines extended downward vertically, although such veins, lodes, or ledges may so far depart from a perpendicular in their course downward as to extend outside the vertical side-lines of said surface locations: *Provided*, That their right of possession to such outside parts of said veins or ledges shall be confined to such portions thereof as lie between vertical planes drawn downward as aforesaid, through the end-lines of their locations, so continued in their own direction that such planes will intersect such exterior parts of said veins or ledges: *And provided further*, That nothing in this section shall authorize the locator or possessor of a vein or lode which extends in its downward course beyond the vertical lines of his claim to enter upon the surface of a claim owned or possessed by another.

SEC. 4. That where a tunnel is run for the development of a vein or lode, or for the discovery of mines, the owners of such tunnel shall have the right of possession of all veins or lodes within three thousand feet from the face of such tunnel on the line thereof, not previously known to exist, discovered in such tunnel, to the same extent as if discovered from the surface; and locations on the line of such tunnel of veins or lodes not appearing on the surface, made by other parties after the commencement of the tunnel, and while the same is being prosecuted with reasonable diligence, shall be invalid; but failure to prosecute the work on the tunnel for six months shall be considered as an abandonment of the right to all undiscovered veins on the line of said tunnel.

SEC. 5. That the miners of each mining district may make rules and regulations not in conflict with the laws of the United States, or with the laws of the State or Territory in which the district is situated, governing the location, manner of recording, amount of work necessary to hold possession of a mining-claim, subject to the following requirements: The location must be distinctly marked on the ground so that its boundaries can be readily traced. All records of mining-claims hereafter made shall contain the name or names of the locators, the date of the location, and such a description of the claim or claims located by reference to some natural object or permanent monument as will identify the claim. On each claim located after the passage of this act, and until a patent shall have been issued therefor, not less than one hundred dollars' worth of labor shall be performed or improvements made during each year. On all claims located prior to the passage of this act, ten dollars' worth of labor shall be performed or improvements made each year for each one hundred feet in length along the vein until a patent shall have been issued therefor; but where such claims are held in common such expenditure may be made upon any one claim; and upon a failure to comply with these conditions, the claim or mine upon which such failure occurred shall be open to relocation in the same manner as if no location of the same had ever been made: *Provided*, That the original locators, their heirs, assigns, or legal representatives, have not resumed work upon the claim after such failure and before such location. Upon the failure of any one of several co-owners to contribute his proportion of the expenditures required by this act, the co-owners who have performed the labor or made the improvements may, at the expiration of the year, give such delinquent co-owner personal notice in writing or notice by publication in the newspaper published nearest the claim, for at least once a week for ninety days, and if at the expiration of ninety days after such notice in writing or by publication such delinquent should fail or refuse to contribute his proportion to comply with this act, his interest in the claim shall become the property of his co-owners who have made the required expenditures.

SEC. 6. That a patent for any land claimed and located for valuable deposits may be obtained in the following manner: Any person, association, or corporation authorized to locate a claim under this act, having claimed and located a piece of land for such purposes, who has, or have,

complied with the terms of this act, may file in the proper land-office an application for a patent, under oath, showing such compliance, together with a plat and field-notes of the claim or claims in common, made by or under the direction of the United States surveyor-general, showing accurately the boundaries of the claim or claims, which shall be distinctly marked by monuments on the ground, and shall post a copy of such plat, together with a notice of such application for a patent, in a conspicuous place on the land embraced in such plat previous to the filing of the application for a patent, and shall file an affidavit of at least two persons that such notice has been duly posted as aforesaid, and shall file a copy of said notice in such land-office, and shall thereupon be entitled to a patent for said land, in the manner following: The register of the land-office, upon the filing of such application, plat, field-notes, notices, and affidavits, shall publish a notice that such application has been made, for the period of sixty days, in a newspaper to be by him designated as published nearest to said claim; and he shall also post such notice in his office for the same period. The claimant at the time of filing this application, or at any time thereafter, within the sixty days of publication, shall file with the register a certificate of the United States surveyor-general that five hundred dollars' worth of labor has been expended or improvements made upon the claim by himself or grantors; that the plat is correct, with such further description by such reference to natural objects or permanent monuments as shall identify the claim, and furnish an accurate description, to be incorporated in the patent. At the expiration of the sixty days of publication the claimant shall file his affidavit, showing that the plat and notice have been posted in a conspicuous place on the claim during said period of publication. If no adverse claim shall have been filed with the register and the receiver of the proper land-office at the expiration of the sixty days of publication, it shall be assumed that the applicant is entitled to a patent, upon the payment to the proper officer of five dollars per acre, and that no adverse claim exists; and thereafter no objection from third parties to the issuance of a patent shall be heard, except it be shown that the applicant has failed to comply with this act.

Patent for land claimed, &c., for valuable deposits, how to be obtained.

SEC. 7. That where an adverse claim shall be filed during the period of publication, it shall be upon oath of the person or persons making the same, and shall show the nature, boundaries, and extent of such adverse claim, and all proceedings, except the publication of notice and making and filing of the affidavit thereof, shall be stayed until the controversy shall have been settled or decided by a court of competent jurisdiction, or the adverse claim waived. It shall be the duty of the adverse claimant, within thirty days after filing his claim, to commence proceedings in a court of competent jurisdiction, to determine the question of the right of possession, and prosecute the same with reasonable diligence to final judgment; and a failure so to do shall be a waiver of his adverse claim. After such judgment shall have been rendered, the party entitled to the possession of the claim, or any portion thereof, may, without giving further notice, file a certified copy of the judgment-roll with the register of the land-office, together with the certificate of the surveyor-general that the requisite amount of labor has been expended, or improvements made thereon, and the description required in other cases, and shall pay to the receiver five dollars per acre for his claim, together with the proper fees, whereupon the whole proceedings and the judgment-roll shall be certified by the register to the commissioner of the general land office, and a patent shall issue thereon for the claim, or such portion thereof as the applicant shall appear, from the decision of the court, to rightly possess. If it shall appear from the decision of the court that several parties are entitled to separate and different portions of the claim, each party may pay for his portion of the claim, with the proper fees, and file the certificate and description by the surveyor-general, whereupon the register shall

Proceedings if adverse claim is filed.

Judgment of court to be obtained.

After judgment, patent to issue to party entitled to possession upon, &c.

Where there are several parties entitled to different portions of claim.



Proof of citizenship.  
1866, ch. 262.  
Vol. xiv. p. 251.  
1870, ch. 235.  
Vol. xvi. p. 217.

Alienation of title by patent.

Description of vein claims on surveyed lands how to designate location;  
on unsurveyed lands.

Repeal of §§ 1, 2, 3, 4 & 6, of act of 1866, ch. 262.

Vol. xiv. pp. 251, 252.

Existing rights not affected.

Pending applications and patents heretofore issued.

Proceedings to obtain patents under act of 1870, chap. 235, vol. xvi. p. 217; to be had according to this act.

Placer-claims upon surveyed lands.

Pending proceedings.

Certain agricultural lands may be entered for homestead, &c., purposes.

Proceedings for patent for placer-claim which includes a vein or lode.

certify the proceedings and judgment-roll to the commissioner of the general land office, as in the preceding case, and patents shall issue to the several parties according to their respective rights. Proof of citizenship under this act, or the acts of July twenty-sixth, eighteen hundred and sixty-six, and July ninth, eighteen hundred and seventy, in the case of an individual, may consist of his own affidavit thereof, and in case of an association of persons unincorporated, of the affidavit of their authorized agent, made on his own knowledge or upon information and belief, and in case of a corporation organized under the laws of the United States, or of any State or Territory of the United States, by the filing of a certified copy of their charter or certificate of incorporation; and nothing herein contained shall be construed to prevent the alienation of the title conveyed by a patent for a mining-claim to any person whatever.

SEC. 8. That the description of vein or lode claims, upon surveyed lands, shall designate the location of the claim with reference to the lines of the public surveys, but need not conform therewith; but where a patent shall be issued as aforesaid for claims upon unsurveyed lands, the surveyor-general, in extending the surveys, shall adjust the same to the boundaries of such patented claim, according to the plat or description thereof, but so as in no case to interfere with or change the location of any such patented claim.

SEC. 9. That sections one, two, three, four, and six of an act entitled "An act granting the right of way to ditch and canal owners over the public lands, and for other purposes," approved July twenty-sixth, eighteen hundred and sixty-six, are hereby repealed, but such repeal shall not affect existing rights. Applications for patents for mining-claims now pending may be prosecuted to a final decision in the general land office; but in such cases where adverse rights are not affected thereby, patents may issue in pursuance of the provisions of this act; and all patents for mining-claims heretofore issued under the act of July twenty-sixth, eighteen hundred and sixty-six, shall convey all the rights and privileges conferred by this act where no adverse rights exist at the time of the passage of this act.

SEC. 10. That the act entitled "An act to amend an act granting the right of way to ditch and canal owners over the public lands, and for other purposes," approved July ninth, eighteen hundred and seventy, shall be and remain in full force, except as to the proceedings to obtain a patent, which shall be similar to the proceedings prescribed by sections six and seven of this act for obtaining patents to vein or lode claims; but where said placer-claims shall be upon surveyed lands, and conform to legal subdivisions, no further survey or plat shall be required, and all placer mining-claims hereafter located shall conform as near as practicable with the United States system of public land surveys and the rectangular subdivisions of such surveys, and no such location shall include more than twenty acres for each individual claimant, but where placer-claims cannot be conformed to legal subdivisions, survey and plat shall be made as on unsurveyed lands: *Provided*, That proceedings now pending may be prosecuted to their final determination under existing laws; but the provisions of this act, when not in conflict with existing laws, shall apply to such cases: *And provided also*, That where by the segregation of mineral land in any legal subdivision a quantity of agricultural land less than forty acres remains, said fractional portion of agricultural land may be entered by any party qualified by law, for homestead or pre-emption purposes.

SEC. 11. That where the same person, association, or corporation is in possession of a placer-claim, and also a vein or lode included within the boundaries thereof, application shall be made for a patent for the placer-claim, with the statement that it includes such vein or lode, and in such case (subject to the provisions of this act and the act entitled "An act to amend an act granting the right of way to ditch and canal owners over

the public lands, and for other purposes," approved July ninth, eighteen hundred and seventy) a patent shall issue for the placer-claim, including such vein or lode, upon the payment of five dollars per acre for such vein or lode claim, and twenty-five feet of surface on each side thereof. The remainder of the placer-claim, or any placer-claim not embracing any vein or lode claim, shall be paid for at the rate of two dollars and fifty cents per acre, together with all costs of proceedings; and where a vein or lode, such as is described in the second section of this act, is known to exist within the boundaries of a placer-claim, an application for a patent for such placer-claim which does not include an application for the vein or lode claim shall be construed as a conclusive declaration that the claimant of the placer-claim has no right of possession of the vein or lode claim; but where the existence of a vein or lode in a placer-claim is not known, a patent for the placer-claim shall convey all valuable mineral and other deposits within the boundaries thereof.

Effect of patent for placer-claim upon veins, &c., within its boundaries.

SEC. 12. That the surveyor-general of the United States may appoint in each land district containing mineral lands as many competent surveyors as shall apply for appointment to survey mining-claims. The expenses of the survey of vein or lode claims, and the survey and subdivision of placer-claims into smaller quantities than one hundred and sixty acres, together with the cost of publication of notices, shall be paid by the applicants, and they shall be at liberty to obtain the same at the most reasonable rates, and they shall also be at liberty to employ any United States deputy surveyor to make the survey. The commissioner of the general land office shall also have power to establish the maximum charges for surveys and publication of notices under this act; and, in case of excessive charges for publication, he may designate any newspaper published in a land district where mines are situated for the publication of mining-notices in such district, and fix the rates to be charged by such paper; and, to the end that the commissioner may be fully informed on the subject, each applicant shall file with the register a sworn statement of all charges and fees paid by said applicant for publication and surveys, together with all fees and money paid the register and the receiver of the land-office, which statement shall be transmitted, with the other papers in the case, to the commissioner of the general land office. The fees of the register and the receiver shall be five dollars each for filing and acting upon each application for patent or adverse claim filed, and they shall be allowed the amount fixed by law for reducing testimony to writing, when done in the land-office, such fees and allowances to be paid by the respective parties; and no other fees shall be charged by them in such cases. Nothing in this act shall be construed to enlarge or affect the rights of either party in regard to any property in controversy at the time of the passage of this act, or of the act entitled "An act granting the right of way to ditch and canal owners over the public lands, and for other purposes," approved July twenty-sixth, eighteen hundred and sixty-six, nor shall this act affect any right acquired under said act; and nothing in this act shall be construed to repeal, impair, or in any way affect the provisions of the act entitled "An act granting to A. Sutro the right of way, and other privileges to aid in the construction of a draining and exploring tunnel to the Comstock lode, in the State of Nevada," approved July twenty-fifth, eighteen hundred and sixty-six.

Surveyor-general may appoint in each district competent surveyors of mining-claims.

Expenses of survey, &c., of claims, &c.

Commissioner of land office to establish maximum charges, &c.

Applicant to file sworn statement of fees and charges.

Fees of register and receiver.

Adverse rights not affected by this act.

Provisions of act of 1866, ch. 244, vol. xiv. p. 242, not affected hereby.

Affidavits under this act, &c., may be verified and testimony &c., taken, before whom.

Testimony in contests as to

SEC. 13. That all affidavits required to be made under this act, or the act of which it is amendatory, may be verified before any officer authorized to administer oaths within the land-district where the claims may be situated, and all testimony and proofs may be taken before any such officer, and, when duly certified by the officer taking the same, shall have the same force and effect as if taken before the register and receiver of the land-office. In cases of contest as to the mineral or agricultural character of land, the testimony and proofs may be taken as herein provided on per-

character of land,  
how taken.

sonal notice of at least ten days to the opposing party; or if said party cannot be found, then by publication of at least once a week for thirty days in a newspaper, to be designated by the register of the land-office as published nearest to the location of such land; and the register shall require proof that such notice has been given.

Where veins  
intersect, &c.,  
priority of title  
to govern.  
Proviso.

SEC. 14. That where two or more veins intersect or cross each other, priority of title shall govern, and such prior location shall be entitled to all ore or mineral contained within the space of intersection: *Provided, however,* That the subsequent location shall have the right of way through said space of intersection for the purposes of the convenient working of the said mine: *And provided also,* That where two or more veins unite, the oldest or prior location shall take the vein below the point of union, including all the space of intersection.

Where veins  
unite, oldest loca-  
tion to take.

Patents for  
non-mineral  
lands, not con-  
tiguous to lode,  
but used by  
proprietors for  
mining, &c.,  
purposes.  
Limit to  
amount of such  
land.

SEC. 15. That where non-mineral land not contiguous to the vein or lode is used or occupied by the proprietor of such vein or lode for mining or milling purposes, such non-adjacent surface ground may be embraced and included in an application for a patent for such vein or lode, and the same may be patented therewith, subject to the same preliminary requirements as to survey and notice as are applicable under this act to veins or lodes: *Provided,* That no location hereafter made of such non-adjacent land shall exceed five acres, and payment for the same must be made at the same rate as fixed by this act for the superficies of the lode. The owner of a quartz-mill or reduction-works, not owning a mine in connection therewith, may also receive a patent for his mill-site, as provided in this section.

Repealing  
clause.  
Existing rights  
not affected.

SEC. 16. That all acts and parts of acts inconsistent herewith are hereby repealed: *Provided,* That nothing contained in this act shall be construed to impair, in any way, rights or interests in mining property acquired under existing laws.

APPROVED, May 10, 1872.

May 10, 1872. CHAP. CLIII.—*An Act authorizing the Secretary of War to correct an Army Officer's Record.*

Preamble.

Whereas in December, eighteen hundred and seventy, Major Samuel Ross, United States army, unassigned, was examined by a retiring board at San Francisco, California, and found disabled for active duty on account of wounds received in battle; and whereas no official action having been taken to retire from active service the said Ross on the proceedings of said retiring board, and the said Ross being a supernumerary officer was honorably mustered out of service as such on or about January second, eighteen hundred and seventy-one; and whereas on or about March second, eighteen hundred and seventy-two, the said Ross was re-appointed an officer of the United States army, as second lieutenant, with a view of being retired from active service on account of said disability: Therefore,

Name of Samuel  
Ross to be  
placed on retired  
list of army  
officers, &c.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of War is hereby authorized to place the name of said Samuel Ross on the list of officers retired from active service, according to the proceedings and report of said retiring board, to take effect for rank and pay from the first day of January, eighteen hundred and seventy-one, and to correct the army records and register so that the name of said Ross will appear as continuously in service; *Provided,* That any and all moneys as pay or emoluments received by said Ross, on account of being declared mustered out as aforesaid, shall be deducted from his pay as such retired officer, accruing from, on, and after the said first day of January, eighteen hundred and seventy-one.

Proviso.

APPROVED, May 10, 1872.



his right to any land on which he resided at the time of an entry by another person under the act to which this is an amendment.

APPROVED, February 17, 1873.

CHAP. CL. — *An Act for the Erection of a public Building for the Use of the United States in Covington, Kentucky.* Feb. 17, 1873.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and hereby is, authorized and directed to cause to be constructed a suitable brick building, with a fire-proof brick vault extending to each story in the city of Covington, Kentucky, for the accommodation of the United States circuit and district courts, post-office, and other government offices; and the sum of one hundred and thirty thousand dollars is hereby appropriated for the purpose aforesaid, out of any money in the treasury not otherwise appropriated, of which not more than thirty thousand dollars shall be used in payment for the site; and the Secretary of the Treasury shall cause the proper plans and estimates to be made, so that no expenditures shall be made or authorized, for the full completion of said building, beyond the sum herein appropriated: *Provided,* That no money hereby appropriated shall be used or expended until a valid title to the land for a site, independent and unexposed to danger from fire in adjacent buildings, shall be vested in the United States, nor until the State of Kentucky shall cede its jurisdiction over the same, and also duly release and relinquish to the United States the right to tax or in any way assess said site, or the property of the United States that may be thereon, during the time that the United States shall be or remain the owner thereof.

APPROVED, February 17, 1873.

CHAP. CLIX. — *An Act in Relation to mineral Lands.* Feb. 18, 1873.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That within the States hereinafter named deposits or mines of iron and coal be, and they are hereby, excluded from the operations of an act entitled "An act to promote the development of the mining resources of the United States," approved May tenth eighteen hundred and seventy-two, and said act shall not apply to the mineral lands situate and being within the States of Michigan, Wisconsin, and Minnesota, and that said lands are hereby declared free and open to exploration and purchase, according to the legal subdivisions thereof, as before the passage of said act; and that any bona-fide entries of such lands within said States, since the passage thereof, may be patented without reference to the provisions of said act.

APPROVED, February 18, 1873.

CHAP. CLX. — *An Act creating an additional Land District in the Territory of Arizona.* Feb. 18, 1873.

*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That all that portion of the Territory of Arizona embraced in the following-described limits, to wit: commencing at the eastern boundary of the Territory, at the intersection of the first standard line north; and running thence west on that line to the western boundary of the Territory; thence south with said boundary line to the southern boundary of the Territory; thence east on said line to the eastern boundary of the eastern boundary of the Territory; and thence north on said line to the place of beginning, shall constitute a separate land district, to be called the Gila land district, the office of which shall be located at such place in said district as the President of the United States may direct, which may be changed from time to time as the public interest may require.

or cribs in front of their mill property on the banks of said river, for the protection of their mills and rafts against damage by floods and ice: *Provided however*, That the piers or cribs so constructed shall not interfere with or obstruct the navigation of said river: *Provided further*, That in case by reason of the shifting of the channel of the said river, or from any other cause, the piers or cribs, the construction of which are authorized by this act shall be found to obstruct the navigation of said river at any time, the government expressly reserves the right to remove, or direct the removal of any such piers or cribs at the cost and expense of the owners thereof.

build cribs to protect their mills and rafts. Navigation not to be obstructed.

Right to remove cribs reserved.

APPROVED, March 3, 1873.

CHAP. CCLXXIX. — *An Act to provide for the Sale of the Lands of the United States containing Coal.* March 3, 1873.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That any person above the age of twenty-one years, who is a citizen of the United States, or who has declared his intention to become such, or any association of persons severally qualified as above, shall, upon application to the register of the proper land-office, have the right to enter, by legal subdivisions, any quantity of vacant coal lands of the United States not otherwise appropriated or reserved by competent authority, not exceeding one hundred and sixty acres to such individual person, or three hundred and twenty acres to such association, upon payment to the receiver of not less than ten dollars per acre for such lands, where the same shall be situated more than fifteen miles from any completed railroad, and not less than twenty dollars per acre for such lands as shall be within fifteen miles of such road.

Vacant coal lands of the United States, not otherwise appropriated, may be entered by whom, in what quantities, and at what price.

SECTION 2. That any person or association of persons severally qualified as above, who have opened and improved, or shall hereafter open and improve, any coal mine or mines upon the public lands, and shall be in actual possession of the same, shall be entitled to a preference right of entry, under the foregoing provisions, of the mines so opened and improved: *Provided*, That when any association of not less than four persons, severally qualified as in section one of this act, shall have expended not less than five thousand dollars in working and improving any such mine or mines, such association may enter not exceeding six hundred and forty acres, including such mining improvements.

Persons actually in possession of coal mines opened by themselves, to have preference in making entry;

when may enter 640 acres.

SECTION 3. That all claims under section two of this act must be presented to the register of the proper land-district within sixty days after the date of actual possession and the commencement of improvements on the land, by the filing of a declaratory statement therefor: *Provided*, That when the township plat is not on file at the date of such improvement, filing must be made within sixty days from the receipt of such plat at the district office; *And provided further*, That where the improvements shall have been made prior to the expiration of three months from the passage of this act, sixty days from the expiration of said three months shall be allowed for the filing of a declaratory statement, and no sale under the provisions of this act shall be allowed until the expiration of six months from the date hereof.

Claims to be presented to register within sixty days of actual possession. Provisos.

SECTION 4. That this act shall be held to authorize only one entry by the same person or association of persons under its provisions; and no association of persons, any member of which shall have taken the benefit of this act either as an individual or as a member of any other association shall enter or hold any other lands under the provisions of this act; and no member of any association which shall have taken the benefit of this act shall enter or hold any other lands under its provisions; and all persons claiming under section two hereof, shall be required to prove their respective rights and pay for the lands filed upon within one year from the time

Only one entry to be made by same person, &c

Claimants under section two to pay for lands

within a year from, &c.

In case of conflicting claims, priority of possession, &c., to determine.

Where improvements are already made.

Existing rights not impaired.

prescribed for filing their respective claims; and upon failure to file the proper notice, or to pay for the land within the required period, the same shall be subject to entry by any other qualified applicant.

SECTION 5. That in case of conflicting claims upon lands where the improvements shall be hereafter commenced, priority of possession and improvement, followed by proper filing and continued good faith, shall determine the preference right to purchase. And also where improvements have already been made at the date of the passage of this act, division of the land claimed may be made by legal subdivisions, to include, as near as may be, the valuable improvements of the respective parties; and the commissioner of the general land-office shall be, and is hereby, authorized to issue all needful rules and regulations for carrying into effect the provisions of this act.

SECTION 6. That nothing in this act shall be construed to destroy or impair any rights which may have attached prior to its passage, or to authorize the sale of lands valuable for mines of gold, silver, or copper.

APPROVED, March 3, 1873.

March 3, 1873.

CHAP. CCLXXX. — *An Act for the Relief of Howard F. Moffat.*

Howard F. Moffat may be appointed master upon the retired list of the navy.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States be, and he is hereby, authorized to nominate, and by and with the advice and consent of the Senate, to appoint, upon the retired list of the navy, with the rank of master, Howard F. Moffat, now a volunteer officer on the active list of the navy.

APPROVED, March 3, 1873.

March 3, 1873.

1868, ch. 296, §§ 12, 13.

Vol. xiv. p. 322.

Time for filing claims for additional bounty extended.

1872, ch. 112.

*Ante*, p. 54.

CCLXXXI. — *An Act to extend the Time for filing Claims for additional Bounty under the Act of July twenty-eighth, eighteen hundred and sixty-six.*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the time for filing claims for additional bounty, under the act of July twenty-eighth, eighteen hundred and sixty-six, and which expired by limitation January thirtieth, eighteen hundred and seventy-three, be, and the same is hereby, revived and extended until the thirtieth day of January, eighteen hundred and seventy-four; and that all claims for such bounties filed in the proper department after the thirtieth day of January, eighteen hundred and seventy-three, and before the passage of this act, shall be deemed to have been filed in due time, and shall be considered and decided without filing.

APPROVED, March 3, 1873.

March 3, 1873.

1868, ch. 55.

Vol. ii. p. 490.

Proper quota of arms and military equipments to be distributed to certain States.

No distinction to be made between companies, &c., on account of race, color, &c.

CHAP. CCLXXXII. — *An Act to authorize and direct the Secretary of War to distribute Arms and military Equipments under the Act of April twenty-three, eighteen hundred and eight, and the Acts amendatory thereof.*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of War be, and he is hereby, authorized and directed to distribute to such States as did not, from the year eighteen hundred and sixty-two to the year eighteen hundred and sixty-nine, receive the same, their proper quota of arms and military equipments for each year, from eighteen hundred and sixty-two to eighteen hundred and sixty-nine, under the act of Congress approved April twenty-third, eighteen hundred and eight, and the several acts amendatory thereof: *Provided*, That in the organization and equipment of military companies and organizations with said arms, no discrimination shall be made between said companies and organizations on account of race, color, or former condition of servitude.

APPROVED, March 3, 1873.



THE  
STATUTES AT LARGE

THE UNITED STATES,

FROM

DECEMBER, 1873, TO MARCH, 1875,

AND

RECENT TREATIES, POSTAL CONVENTIONS, AND EXECUTIVE PROCLAMATIONS.

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EDITED, PRINTED, AND PUBLISHED UNDER THE AUTHORITY OF  
AN ACT OF CONGRESS, AND UNDER THE DIRECTION  
OF THE SECRETARY OF STATE.

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VOL. XVIII.—PART 3.

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1875.

June 22, 1874.

**CHAP. 419.**—An act authorizing the transfer of gold mint bars from the bullion fund of the assay office New York to the Assistant Treasurer at New York.

Transfer of gold  
mint bars to Assist-  
ant Treasurer at  
New York.

May be applied to  
redemption of coin  
certificates, &c.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury may, from time to time, transfer to the office of the Assistant Treasurer at New York from the bullion fund of the assay office at New York, refined gold bars bearing the United States stamp of fineness, weight and value, or bars from any melt of foreign gold coin or bullion of standard equal to or above that of the United States and may apply the same to the redemption of coin certificates or in exchange for gold coins at not less than par and not less than the market value subject to such regulations as he may prescribe.

Approved, June 22, 1874.

June 22, 1874.

**CHAP. 420.**—An act to change the name of the pleasure-yacht "Planchette," to that of "Laxen."

Name of yacht  
"Planchette"  
changed to "Laxen."

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the name of the pleasure-yacht "Planchette," owned by Samuel Johnson, of Boston, State of Massachusetts, be, and hereby is, changed to that of "Laxen," and the Secretary of the Treasury is hereby authorized to grant said vessel proper marine-papers in said name.

Approved, June 22, 1874.

June 22, 1874.

**CHAP. 421.**—An act to place on the retired list of the Navy, M. H. Plunkett, late second assistant engineer of the Regular Navy.

M. H. Plunkett to  
be placed on the re-  
tired list of the  
Navy.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President be, and is hereby, authorized to nominate and appoint M. H. Plunkett, late second assistant engineer of the regular naval service, on the retired list of the Navy, with pay to begin from the passage of this act—

Approved, June 22, 1874.

June 22, 1874.

**CHAP. 422.**—An act to appropriate lands for the support of schools in certain fractional townships in the State of Missouri.

School lands for  
certain fractional  
townships in Mis-  
souri.

1826, ch. 83, vol.  
iv, p. 179.

Selection by Com-  
missioner of Gen-  
eral Land-Office.

Proviso.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That for all fractional townships in the State of Missouri, which are entitled to public lands for the support of schools, according to the provisions of the act of Congress approved May twentieth eighteen hundred and twenty-six entitled "An act to appropriate lands for the support of schools in certain townships and fractional townships not before provided for," and for which no selections have heretofore been made, there shall be reserved and appropriated out of the public lands, for each of said fractional townships, the amount of land to which they were respectively entitled according to the provisions of said act.

**SEC. 2.** That the lands to which said fractional townships are entitled as aforesaid shall be selected by the Commissioner of the General Land-Office out of any unappropriated public land within the State of Missouri subject to sale or location at one dollar and twenty-five cents an acre: *Provided,* That said Commissioner, in making such selection, shall select such land as shall be designated to him for that purpose by the county courts of the counties in which such fractional townships are situated; and, when so selected, said lands shall be held by the same

tenure, and upon the same terms, for the support of schools in such fractional townships, as sections numbered sixteen are, or may be, held in the State of Missouri.

Approved, June 22, 1874.

**CHAP. 423.**—An act authorizing the Secretary of the Treasury to deliver to the Connecticut Historical Society certain papers on file as vouchers for the discharged claims of the heirs of Silas Deane.

June 22, 1874.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to deliver to the Connecticut Historical Society the papers now on file in the Treasury Department as vouchers in support of the claims of the heirs of Silas Deane, it being understood that those claims have been fully satisfied and discharged, and that the heirs aforesaid have transferred to said historical Society all the papers of historical interest left by said Silas Deane: *Provided,* That copies of said papers shall be left on file in said Department.

Vouchers of heirs of Silas Deane to be transferred to Connecticut Historical Society.

Copies to be left on file in Treasury Department.

Approved, June 22, 1874.

**CHAP. 424.**—An act to extend the act of March third, eighteen hundred and seventy-three, entitled "An act for the extension of time to the Saint Paul and Pacific Railroad Company for the completion of its roads."

June 22, 1874.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the provisions of the act of Congress approved March third, eighteen hundred and seventy-three, entitled "An act for the extension of time to the Saint Paul and Pacific Railroad Company for the completion of its roads," be, and the same are hereby revived and extended until the third day of March, A. D. eighteen hundred and seventy-six, and no longer upon the following conditions: That all rights of actual settlers and their grantees who have heretofore in good faith entered upon and actually resided on any of said lands prior to the passage of this act, or who otherwise have legal rights in any of such lands shall be saved and secured to such settlers or such other persons in all respects the same as if said lands had never been granted to aid in the construction of the said lines of railroad.

1873, ch. 331, vol. xvii, p. 631.

Time for completing Saint Paul and Pacific Railroad extended.

Rights of settlers.

**SEC. 2.** That the company taking the benefit of this act shall before acquiring any rights under it, by a certificate made and signed by the president and a majority at least of the directors, and sealed with the corporate seal, accept the conditions contained in this act, and file such acceptance in the Department of the Interior for record and preservation.

Acceptance of conditions by company.

Approved, June 22, 1874.

**CHAP. 453.**—An act to prevent hazing at the Naval Academy

June 23, 1874.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in all cases when it shall come to the knowledge of the superintendent of the Naval Academy, at Annapolis, that any cadet-midshipman or cadet-engineer has been guilty of the offense commonly known as hazing, it shall be the duty of said superintendent to order a court-martial, composed of not less than three commissioned officers, who shall minutely examine into all the facts and circumstances of the case and make a finding thereon; and any cadet-midshipman or cadet-engineer found guilty of said offense by said court shall, upon recommendation of said court be dismissed; and

Hazing at Naval Academy.

Offenders to be court-martialed.

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SECOND EDITION.

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REVISED STATUTES  
OF  
THE UNITED STATES,

PASSED AT THE

FIRST SESSION OF THE FORTY-THIRD CONGRESS,

1873-'74;

EMBRACING THE STATUTES OF THE UNITED STATES, GENERAL AND PERMANENT IN THEIR NATURE, IN FORCE ON THE FIRST DAY OF DECEMBER, ONE THOUSAND EIGHT HUNDRED AND SEVENTY-THREE, AS REVISED AND CONSOLIDATED BY COMMISSIONERS APPOINTED UNDER AN ACT OF CONGRESS; AND AS REPRINTED, WITH AMENDMENTS, UNDER AUTHORITY OF AN ACT OF CONGRESS APPROVED THE SECOND DAY OF MARCH, IN THE YEAR ONE THOUSAND EIGHT HUNDRED AND SEVENTY-SEVEN,

WITH

AN APPENDIX.

EDITED, PRINTED, AND PUBLISHED UNDER THE AUTHORITY OF AN ACT OF CONGRESS,  
AND UNDER THE DIRECTION OF THE SECRETARY OF STATE.

WASHINGTON:  
GOVERNMENT PRINTING OFFICE.

1878.

## PREFACE.

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By an act of Congress, approved March 2, 1877 (v. 19, c. 82, p. 268), authority was given for the appointment by the President of a commissioner, whose duty it should be to prepare and publish, subject to the examination and approval of the Secretary of State, "a new edition of the first volume of the Revised Statutes of the United States."

The jurisdiction of the commissioner was defined and limited by the statute. He was directed to incorporate into the text of the first edition of the statutes all the amendments made since the first day of December, eighteen hundred and seventy-three, including those made by the Forty-fourth Congress, with marginal references to the acts of amendment and to the decisions of the several courts of the United States, with like references to all the statutes passed in the same period, which, in the opinion of the commissioner, might in any manner affect or modify any of the provisions of the first edition of the Revised Statutes.

He was directed also to include in the new edition the Articles of Confederation, the Declaration of our National Independence, the Ordinance of Seventeen Hundred and Eighty-seven for the Government of the Northwestern Territory, and the Constitution of the United States, with foot-notes referring to the decisions of the Federal courts thereon. These papers were not printed with the first edition of the statutes.

This edition is not in any proper sense a new revision of the Statutes of the United States. The commissioner was not clothed with power to change the substance or to alter the language of the existing edition of the Revised Statutes, nor could he correct any errors or supply any omissions therein except as authorized by the several statutes of amendment. Of specific amendments, there are, however, several hundred, which have been incorporated with the text. The portions of the statutes repealed are printed in italics and included in brackets, and the new matter introduced is printed in the ordinary roman letter and also included in brackets.

So much of the work as affects the text of the present edition has been examined, under the direction of the Hon. William M. Evarts, Secretary of State, by Hon. Charles P. James, one of the commissioners by whom the first edition of the Revised Statutes was prepared.

The acts of Congress passed since the first edition of the Revised Statutes was issued, and affecting the text thereof, are referred to in the margin of the respective sections so affected.

In this edition, full, and, it is believed, complete notes of reference to the opinions of the Supreme Court of the United States will be found under the several paragraphs of the Constitution to which the opinions respectively relate, and reference is also made to



the small number of decisions which interpret or in any manner touch the Ordinance for the Government of the Northwestern Territory.

The Appendix contains the various statutes which provide for or relate to the "revision and consolidation of the statute laws of the United States," and also a cross index by which the various provisions of the Revised Statutes may be traced to the original enactments in the Statutes at Large.

In the preparation of the index, I have had the best assistance which I could command, and no labor has been avoided that could contribute in the least to the perfectness of the work. While it is not probable that the end sought has been attained, I indulge the hope that the character of the index may, in some reasonable degree, meet the expectation of Congress, the executive officers of the Government, the judiciary, and the profession generally.

The analytical index to the Constitution was prepared by W. J. McDonald, esq., late Chief Clerk of the United States Senate.

The historical notes to the Declaration of Independence, the Articles of Confederation, and the Constitution are taken from a work entitled, "The Organic Laws of the United States of America," prepared by Maj. Ben: Perley Poore, and printed by authority of Congress.

GEO. S. BOUTWELL,  
*Commissioner.*

WASHINGTON, *September*, 1878.

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THE ORGANIC LAWS

OF THE

UNITED STATES OF AMERICA.

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# THE DECLARATION OF INDEPENDENCE—1776.\*

IN CONGRESS, JULY 4, 1776.

## *The unanimous Declaration of the thirteen united States of America,*

WHEN in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the Powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, That whenever any Form of Government becomes destructive of these ends, it is the Right of

\* The delegates of the United Colonies of New Hampshire; Massachusetts Bay; Rhode Island and Providence Plantations; Connecticut; New York; New Jersey; Pennsylvania; New Castle, Kent, and Sussex, in Delaware; Maryland; Virginia; North Carolina, and South Carolina, In Congress assembled at Philadelphia, Resolved on the 10th of May, 1776, to recommend to the respective assemblies and conventions of the United Colonies, where no government sufficient to the exigencies of their affairs had been established, to adopt such a government as should, in the opinion of the representatives of the people, best conduce to the happiness and safety of their constituents in particular, and of America in general. A preamble to this resolution, agreed to on the 15th of May, stated the intention to be totally to suppress the exercise of every kind of authority under the British crown. On the 7th of June, certain resolutions respecting independency were moved and seconded. On the 10th of June it was resolved, that a committee should be appointed to prepare a declaration to the following effect: "That the United Colonies are, and of right ought to be, free and independent States; that they are absolved from all allegiance to the British crown; and that all political connection between them and the State of Great Britain is, and ought to be, totally dissolved." On the preceding day it was determined that the committee for preparing the declaration should consist of five, and they were chosen accordingly, in the following order: Mr. Jefferson, Mr. J. Adams, Mr. Franklin, Mr. Sherman, Mr. R. R. Livingston. On the 11th of June a resolution was passed to appoint a committee to prepare and digest the form of a confederation to be entered into between the colonies, and another committee to prepare a plan of treaties to be proposed to foreign powers. On the 12th of June, it was resolved, that a committee of Congress should be appointed by the name of a board of war and ordnance, to consist of five members. On the 25th of June, a declaration of the deputies of Pennsylvania, met in provincial conference, expressing their willingness to concur in a vote declaring the United Colonies free and independent States, was laid before Congress and read. On the 28th of June, the committee appointed to prepare a declaration of independence brought in a draught, which was read, and ordered to lie on the table. On the 1st of July, a resolution of the convention of Maryland, passed the 28th of June, authorizing the deputies of that colony to concur in declaring the United Colonies free and independent States, was laid before Congress and read. On the same day Congress resolved itself into a committee of the whole, to take into consideration the resolution respecting independency. On the 2d of July, a resolution declaring the colonies free and independent States, was adopted. A declaration to that effect was, on the same and the following days, taken into further consideration. Finally, on the 4th of July, the Declaration of Independence was agreed to, engrossed on paper, signed by John Hancock as president, and directed to be sent to the several assemblies, conventions, and committees, or councils of safety, and to the several commanding officers of the continental troops, and to be proclaimed in each of the United States, and at the head of the Army. It was also ordered to be entered upon the Journals of Congress, and on the 2d of August, a copy engrossed on parchment was signed by all but one of the fifty-six signers whose names are appended to it. That one was Matthew Thornton, of New Hampshire, who on taking his seat in November asked and obtained the privilege of signing it. Several who signed it on the 2d of August were absent when it was adopted on the 4th of July, but, approving of it, they thus signified their approbation.

NOTE.—The proof of this document, as published above, was read by Mr. Ferdinand Jefferson, the Keeper of the Rolls at the Department of State, at Washington, who compared it with the fac-simile of the original in his custody. He says: In the fac-simile, as in the original, the whole instrument runs on without a break, but dashes are mostly inserted. I have, in this copy, followed the arrangement of paragraphs adopted in the publication of the Declaration in the newspaper of John Dunlap, and as printed by him for the Congress, which printed copy is inserted in the original Journal of the old Congress. The same paragraphs are also made by the author, in the original draught preserved in the Department of State.

the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shown, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security.— Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world.

He has refused his Assent to Laws, the most wholesome and necessary for the public good.

He has forbidden his Governors to pass Laws of immediate and pressing importance, unless suspended in their operation till his Assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other Laws for the accommodation of large districts of people, unless those people would relinquish the right of Representation in the Legislature, a right inestimable to them and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their Public Records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

He has refused for a long time, after such dissolutions, to cause others to be elected; whereby the Legislative Powers, incapable of Annihilation, have returned to the People at large for their exercise; the State remaining in the mean time exposed to all the dangers of invasion from without, and convulsions within.

He has endeavoured to prevent the population of these States; for that purpose obstructing the Laws for Naturalization of Foreigners; refusing to pass others to encourage their migration hither, and raising the conditions of new Appropriations of Lands.

He has obstructed the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary Powers.

He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of New Offices, and sent hither swarms of Officers to harrass our People, and eat out their substance.

He has kept among us, in times of peace, Standing Armies without the Consent of our legislature.

He has affected to render the Military independent of and superior to the Civil Power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his Assent to their acts of pretended Legislation:

For quartering large bodies of armed troops among us:

For protecting them, by a mock Trial, from Punishment for any Murders which they should commit on the Inhabitants of these States:

For cutting off our Trade with all parts of the world:

For imposing taxes on us without our Consent:

For depriving us in many cases, of the benefits of Trial by Jury:

For transporting us beyond Seas to be tried for pretended offences:

For abolishing the free System of English Laws in a neighbouring Province, establishing therein an Arbitrary government, and enlarging its Boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these Colonies:

For taking away our Charters, abolishing our most valuable Laws, and altering fundamentally the Forms of our Government:

For suspending our own Legislature, and declaring themselves invested with Power to legislate for us in all cases whatsoever.



He has abdicated Government here, by declaring us out of his Protection and waging War against us.

He has plundered our seas, ravaged our Coasts, burnt our towns, and destroyed the lives of our people.

He is at this time transporting large armies of foreign mercenaries to compleat the works of death, desolation and tyranny, already begun with circumstances of Cruelty & perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the Head of a civilized nation.

He has constrained our fellow Citizens taken Captive on the high Seas to bear Arms against their Country, to become the executioners of their friends and Brethren, or to fall themselves by their Hands.

He has excited domestic insurrections amongst us, and has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian Savages, whose known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions.

In every stage of these Oppressions We have Petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only by repeated injury. A Prince, whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free People.

Nor have We been wanting in attention to our Brittish brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which, would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity, which denounces our Separation, and hold them, as we hold the rest of mankind, Enemies in War, in Peace Friends.

We, therefore, the Representatives of the united States of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name, and by Authority of the good People of these Colonies, solemnly publish and declare, That these United Colonies are, and of Right ought to be Free and Independent States; that they are Absolved from all Allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved; and that as Free and Independent States, they have full power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do. And for the support of this Declaration, with a firm reliance on the Protection of Divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor.

JOHN HANCOCK.

*New Hampshire.*

JOSIAH BARTLETT,  
WM. WHIPPLE,

MATTHEW THORNTON.

*Massachusetts Bay.*

SAML. ADAMS,  
JOHN ADAMS,

ROBT. TREAT PAINE,  
ELBRIDGE GERRY.

*Rhode Island.*

STEP. HOPKINS,

WILLIAM ELLERY.

*Connecticut.*

ROGER SHERMAN,  
SAM'EL HUNTINGTON,

WM. WILLIAMS,  
OLIVER WOLCOTT.

*New York.*

WM. FLOYD,  
PHIL. LIVINGSTON,

FRANS. LEWIS,  
LEWIS MORRIS.

*New Jersey.*

RICHD. STOCKTON,  
JNO. WITHERSPOON,  
FRAS. HOPKINSON,

JOHN HART,  
ABRA. CLARK.

*Pennsylvania.*

ROBT. MORRIS,  
BENJAMIN RUSH,  
BENJA. FRANKLIN,  
JOHN MORTON,  
GEO. CLYMER,

JAS. SMITH,  
GEO. TAYLOR,  
JAMES WILSON,  
GEO. ROSS.

*Delaware.*

CÆSAR RODNEY,  
GEO. READ,

THO. M'KEAN.

*Maryland.*

SAMUEL CHASE,  
WM. PACA,

THOS. STONE,  
CHARLES CARROLL of Carrollton.

*Virginia.*

GEORGE WYTHE,  
RICHARD HENRY LEE,  
TH. JEFFERSON,  
BENJA. HARRISON,

THOS. NELSON, jr.,  
FRANCIS LIGHTFOOT LEE,  
CARTER BRAXTON.

*North Carolina.*

WM. HOOPER,  
JOSEPH HEWES,

JOHN PENN.

*South Carolina.*

EDWARD RUTLEDGE,  
THOS. HEYWARD, JUNR.,

THOMAS LYNCH, JUNR.,  
ARTHUR MIDDLETON.

*Georgia.*

BUTTON GWINNETT,  
LYMAN HALL,

GEO. WALTON.

NOTE.—Mr. Ferdinand Jefferson, Keeper of the Rolls in the Department of State, at Washington, says: "The names of the signers are spelt above as in the fac-simile of the original, but the punctuation of them is not always the same; neither do the names of the States appear in the fac-simile of the original. The names of the signers of each State are grouped together in the fac-simile of the original, except the name of Matthew Thornton, which follows that of Oliver Wolcott."

## ARTICLES OF CONFEDERATION—1777.\*

*To all to whom these Presents shall come, we the undersigned Delegates of the States affixed to our Names send greeting.*

Whereas the Delegates of the United States of America in Congress assembled did on the fifteenth day of November in the Year of our Lord One Thousand Seven Hundred and Seventyseven, and in the Second Year of the Independence of America agree to certain articles of Confederation and perpetual Union between the States of Newhampshire, Massachusetts-bay, Rhodeisland and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina and Georgia in the Words following, viz.

*“Articles of Confederation and perpetual Union between the States of Newhampshire, Massachusetts-bay, Rhodeisland and Providence Plantations, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina and Georgia.*

ARTICLE I. The stile of this confederacy shall be “The United States of America.”

ARTICLE II. Each State retains its sovereignty, freedom and independence, and every power, jurisdiction and right, which is not by this confederation expressly delegated to the United States, in Congress assembled.

Dred Scott v. Sanford, 19 How., 393; Texas v. White, 7 Wall., 725.

\*Congress Resolved, on the 11th of June, 1776, that a committee should be appointed to prepare and digest the form of a confederation to be entered into between the Colonies; and on the day following, after it had been determined that the committee should consist of a member from each Colony, the following persons were appointed to perform that duty, to wit: Mr. Bartlett, Mr. S. Adams, Mr. Hopkins, Mr. Sherman, Mr. R. R. Livingston, Mr. Dickinson, Mr. M'Kean, Mr. Stone, Mr. Nelson, Mr. Hewes, Mr. E. Rutledge, and Mr. Gwinnett. Upon the report of this committee, the subject was, from time to time, debated, until the 15th of November, 1777, when a copy of the confederation being made out, and sundry amendments made in the diction, without altering the sense, the same was finally agreed to. Congress, at the same time, directed that the articles should be proposed to the legislatures of all the United States, to be considered, and if approved of by them, they were advised to authorize their delegates to ratify the same in the Congress of the United States; which being done, the same should become conclusive. Three hundred copies of the Articles of Confederation were ordered to be printed for the use of Congress; and on the 17th of November, the form of a circular letter to accompany them was brought in by a committee appointed to prepare it, and being agreed to, thirteen copies of it were ordered to be made out, to be signed by the president and forwarded to the several States, with copies of the confederation. On the 29th of November ensuing, a committee of three was appointed, to procure a translation of the articles to be made into the French language, and to report an address to the inhabitants of Canada, &c. On the 26th of June, 1778, the form of a ratification of the Articles of Confederation was adopted, and, it having been engrossed on parchment, it was signed on the 9th of July on the part and in behalf of their respective States, by the delegates of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, Pennsylvania, Virginia, and South Carolina, agreeably to the powers vested in them. The delegates of North Carolina signed on the 21st of July, those of Georgia on the 24th of July, and those of New Jersey on the 26th of November following. On the 5th of May, 1779, Mr. Dickinson and Mr. Van Dyke signed in behalf of the State of Delaware, Mr. M'Kean having previously signed in February, at which time he produced a power to that effect. Maryland did not ratify until the year 1781. She had instructed her delegates, on the 15th of December, 1778, not to agree to the confederation until matters respecting the western lands should be settled on principles of equity and sound policy; but, on the 30th of January, 1781, finding that the enemies of the country took advantage of the circumstance to disseminate opinions of an ultimate dissolution of the Union, the legislature of the State passed an act to empower their delegates to subscribe and ratify the articles, which was accordingly done by Mr. Hanson and Mr. Carroll, on the 1st of March of that year, which completed the ratifications of the act; and Congress assembled on the 2d of March under the new powers.

NOTE.—The proof of this document, as published above, was read by Mr. Ferdinand Jefferson, the Keeper of the Rolls of the Department of State, at Washington, who compared it with the original in his custody. He says: “The initial letters of many of the words in the original of this instrument are capitals, but as no system appears to have been observed, the same words sometimes beginning with a capital and sometimes with a small letter, I have thought it best not to undertake to follow the original in this particular. Moreover, there are three forms of the letter s: the capital S, the small s, and the long f, the last being used indiscriminately to words that should begin with a capital and those that should begin with a small s.”



**ARTICLE III.** The said States hereby severally enter into a firm league of friendship with each other, for their common defence, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other, against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever.

**ARTICLE IV.** The better to secure and perpetuate mutual friendship and intercourse among the people of the different States in this Union, the free inhabitants of each of these States, paupers, vagabonds and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several States; and the people of each State shall have free ingress and regress to and from any other State, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions and restrictions as the inhabitants thereof respectively, provided that such restrictions shall not extend so far as to prevent the removal of property imported into any State, to any other State of which the owner is an inhabitant; provided also that no imposition, duties or restriction shall be laid by any State, on the property of the United States, or either of them.

If any person guilty of, or charged with treason, felony, or other high misdemeanor in any State, shall flee from justice, and be found in any of the United States, he shall upon demand of the Governor or Executive power, of the State from which he fled, be delivered up and removed to the State having jurisdiction of his offence.

Full faith and credit shall be given in each of these States to the records, acts and judicial proceedings of the courts and magistrates of every other State.

**ARTICLE V.** For the more convenient management of the general interests of the United States, delegates shall be annually appointed in such manner as the legislature of each State shall direct, to meet in Congress on the first Monday in November, in every year, with a power reserved to each State, to recall its delegates, or any of them, at any time within the year, and to send others in their stead, for the remainder of the year.

No State shall be represented in Congress by less than two, nor by more than seven members; and no person shall be capable of being a delegate for more than three years in any term of six years; nor shall any person, being a delegate, be capable of holding any office under the United States, for which he, or another for his benefit receives any salary, fees or emolument of any kind.

Each State shall maintain its own delegates in a meeting of the States, and while they act as members of the committee of the States.

In determining questions in the United States, in Congress assembled, each State shall have one vote.

Freedom of speech and debate in Congress shall not be impeached or questioned in any court, or place out of Congress, and the members of Congress shall be protected in their persons from arrests and imprisonments, during the time of their going to and from, and attendance on Congress, except for treason, felony, or breach of the peace.

**ARTICLE VI.** No State without the consent of the United States in Congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance or treaty with any king prince or state; nor shall any person holding any office of profit or trust under the United States, or any of them, accept of any present, emolument, office or title of any kind whatever from any king, prince or foreign state; nor shall the United States in Congress assembled, or any of them, grant any title of nobility.

No two or more States shall enter into any treaty, confederation or alliance whatever between them, without the consent of the United States in Congress assembled, specifying accurately the purposes for which the same is to be entered into, and how long it shall continue.

No State shall lay any imposts or duties, which may interfere with any stipulations in treaties, entered into by the United States in Congress assembled, with any king, prince or state, in pursuance of any treaties already proposed by Congress, to the courts of France and Spain.

No vessels of war shall be kept up in time of peace by any State, except such number only, as shall be deemed necessary by the United States in Congress assembled, for the defence of such State, or its trade; nor shall any body of forces be kept up by any State, in time of peace, except such number only, as in the judgment of the United States, in Congress assembled, shall be deemed requisite to garrison the forts necessary for the defence of such State; but every State shall always keep up a well regulated and disciplined militia, sufficiently armed and accoutered, and shall provide and constantly have

ready for use, in public stores, a due number of field pieces and tents, and a proper quantity of arms, ammunition and camp equipage.

No State shall engage in any war without the consent of the United States in Congress assembled, unless such State be actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such State, and the danger is so imminent as not to admit of a delay, till the United States in Congress assembled can be consulted; nor shall any State grant commissions to any ships or vessels of war, nor letters of marque or reprisal, except it be after a declaration of war by the United States in Congress assembled, and then only against the kingdom or state and the subjects thereof, against which war has been so declared, and under such regulations as shall be established by the United States in Congress assembled, unless such State be infested by pirates, in which case vessels of war may be fitted out for that occasion, and kept so long as the danger shall continue, or until the United States in Congress assembled shall determine otherwise.

ARTICLE VII. When land-forces are raised by any State for the common defence, all officers of or under the rank of colonel, shall be appointed by the Legislature of each State respectively by whom such forces shall be raised, or in such manner as such State shall direct, and all vacancies shall be filled up by the State which first made the appointment.

ARTICLE VIII. All charges of war, and all other expenses that shall be incurred for the common defence or general welfare, and allowed by the United States in Congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several States, in proportion to the value of all land within each State, granted to or surveyed for any person, as such land and the buildings and improvements thereon shall be estimated according to such mode as the United States in Congress assembled, shall from time to time direct and appoint.

The taxes for paying that proportion shall be laid and levied by the authority and direction of the Legislatures of the several States within the time agreed upon by the United States in Congress assembled.

ARTICLE IX. The United States in Congress assembled, shall have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the sixth article—of sending and receiving ambassadors—entering into treaties and alliances, provided that no treaty of commerce shall be made whereby the legislative power of the respective States shall be restrained from imposing such imposts and duties on foreigners, as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever—of establishing rules for deciding in all cases, what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States shall be divided or appropriated—of granting letters of marque and reprisal in times of peace—appointing courts for the trial of piracies and felonies committed on the high seas and establishing courts for receiving and determining finally appeals in all cases of captures, provided that no member of Congress shall be appointed a judge of any of the said courts.

The United States in Congress assembled shall also be the last resort on appeal in all disputes and differences now subsisting or that hereafter may arise between two or more States concerning boundary, jurisdiction or any other cause whatever; which authority shall always be exercised in the manner following. Whenever the legislative or executive authority or lawful agent of any State in controversy with another shall present a petition to Congress, stating the matter in question and praying for a hearing, notice thereof shall be given by order of Congress to the legislative or executive authority of the other State in controversy, and a day assigned for the appearance of the parties by their lawful agents, who shall then be directed to appoint by joint consent, commissioners or judges to constitute a court for hearing and determining the matter in question: but if they cannot agree, Congress shall name three persons out of each of the United States, and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen; and from that number not less than seven, nor more than nine names as Congress shall direct, shall in the presence of Congress be drawn out by lot, and the persons whose names shall be so drawn or any five of them, shall be commissioners or judges, to hear and finally determine the controversy, so always as a major part of the judges who shall hear the cause shall agree in the determination: and if either party shall neglect to attend at the day appointed, without showing reasons, which Congress shall judge sufficient, or being present shall refuse to strike, the Congress shall proceed to nominate three persons out of each State, and the Secretary of Congress shall strike in behalf of such party absent or refusing; and the judgment and sentence of the court to be



appointed, in the manner before prescribed, shall be final and conclusive; and if any of the parties shall refuse to submit to the authority of such court, or to appear or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence, or judgment, which shall in like manner be final and decisive, the judgment or sentence and other proceedings being in either case transmitted to Congress, and lodged among the acts of Congress for the security of the parties concerned: provided that every commissioner, before he sits in judgment, shall take an oath to be administered by one of the judges of the supreme or superior court of the State where the cause shall be tried, "well and truly to hear and determine the matter in question, according to the best of his judgment, without favour, affection or hope of reward:" provided also that no State shall be deprived of territory for the benefit of the United States.

All controversies concerning the private right of soil claimed under different grants of two or more States, whose jurisdiction as they may respect such lands, and the States which passed such grants are adjusted, the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall on the petition of either party to the Congress of the United States, be finally determined as near as may be in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different States.

The United States in Congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective States.—fixing the standard of weights and measures throughout the United States.—regulating the trade and managing all affairs with the Indians, not members of any of the States, provided that the legislative right of any State within its own limits be not infringed or violated—establishing and regulating post-offices from one State to another, throughout all the United States, and exacting such postage on the papers passing thro' the same as may be requisite to defray the expenses of the said office—appointing all officers of the land forces, in the service of the United States, excepting regimental officers—appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the United States—making rules for the government and regulation of the said land and naval forces, and directing their operations.

The United States in Congress assembled shall have authority to appoint a committee, to sit in the recess of Congress, to be denominated "a Committee of the States," and to consist of one delegate from each State; and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the United States under their direction—to appoint one of their number to preside, provided that no person be allowed to serve in the office of president more than one year in any term of three years; to ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same for defraying the public expenses—to borrow money, or emit bills on the credit of the United States, transmitting every half year to the respective States an account of the sums of money so borrowed or emitted,—to build and equip a navy—to agree upon the number of land forces, and to make requisitions from each State for its quota, in proportion to the number of white inhabitants in such State; which requisition shall be binding, and thereupon the Legislature of each State shall appoint the regimental officers, raise the men and cloath, arm and equip them in a soldier like manner, at the expense of the United States; and the officers and men so cloathed, armed and equipped shall march to the place appointed, and within the time agreed on by the United States in Congress assembled: but if the United States in Congress assembled shall, on consideration of circumstances judge proper that any State should not raise men, or should raise a smaller number than its quota, and that any other State should raise a greater number of men than the quota thereof, such extra number shall be raised, officered, cloathed, armed and equipped in the same manner as the quota or such State, unless the legislature of such State shall judge that such extra number cannot be safely spared out of the same, in which case they shall raise officer, cloath, arm and equip as many of such extra number as they judge can be safely spared. And the officers and men so cloathed, armed and equipped, shall march to the place appointed, and within the time agreed on by the United States in Congress assembled.

The United States in Congress assembled shall never engage in a war, nor grant letters of marque and reprisal in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof, nor ascertain the sums and expenses necessary for the defence and welfare of the United States, or any of them, nor emit bills, nor borrow money on the credit of the United States, nor appropriate money, nor agree upon the number of vessels of war, to be built or purchased, or the number of land or sea forces



to be raised, nor appoint a commander in chief of the army or navy, unless nine States assent to the same: nor shall a question on any other point, except for adjourning from day to day be determined, unless by the votes of a majority of the United States in Congress assembled.

The Congress of the United States shall have power to adjourn to any time within the year, and to any place within the United States, so that no period of adjournment be for a longer duration than the space of six months, and shall publish the journal of their proceedings monthly, except such parts thereof relating to treaties, alliances or military operations, as in their judgment require secrecy; and the yeas and nays of the delegates of each State on any question shall be entered on the journal, when it is desired by any delegate; and the delegates of a State, or any of them, at his or their request shall be furnished with a transcript of the said journal, except such parts as are above excepted, to lay before the Legislatures of the several States.

ARTICLE X. The committee of the States, or any nine of them, shall be authorized to execute, in the recess of Congress, such of the powers of Congress as the United States in Congress assembled, by the consent of nine States, shall from time to time think expedient to vest them with: provided that no power be delegated to the said committee, for the exercise of which, by the articles of confederation, the voice of nine States in the Congress of the United States assembled is requisite.

ARTICLE XI. Canada acceding to this confederation, and joining in the measures of the United States, shall be admitted into, and entitled to all the advantages of this Union: but no other colony shall be admitted into the same, unless such admission be agreed to by nine States.

ARTICLE XII. All bills of credit emitted, monies borrowed and debts contracted by, or under the authority of Congress, before the assembling of the United States, in pursuance of the present confederation, shall be deemed and considered as a charge against the United States, for payment and satisfaction whereof the said United States, and the public faith are hereby solemnly pledged.

ARTICLE XIII. Every State shall abide by the determinations of the United States in Congress assembled, on all questions which by this confederation are submitted to them. And the articles of this confederation shall be inviolably observed by every State, and the Union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them: unless such alteration be agreed to in a Congress of the United States, and be afterwards confirmed by the Legislatures of every State.

And whereas it has pleased the Great Governor of the world to incline the hearts of the Legislatures we respectively represent in Congress, to approve of, and to authorize us to ratify the said articles of confederation and perpetual union. Know ye that we the undersigned delegates, by virtue of the power and authority to us given for that purpose, do by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said articles of confederation and perpetual union, and all and singular the matters and things therein contained: and we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the United States in Congress assembled, on all questions, which by the said confederation are submitted to them. And that the articles thereof shall be inviolably observed by the States we re[s]pectively represent, and that the Union shall be perpetual.

In witness whereof we have hereunto set our hands in Congress. Done at Philadelphia in the State of Pennsylvania the ninth day of July in the year of our Lord one thousand seven hundred and seventy-eight, and in the third year of the independence of America.\*

*On the part & behalf of the State of New Hampshire.*

JOSIAH BARTLETT,

JOHN WENTWORTH, Junr.,  
August 8th, 1778.

*On the part and behalf of the State of Massachusetts Bay.*

JOHN HANCOCK,  
SAMUEL ADAMS,  
ELDRIDGE GERRY,

FRANCIS DANA,  
JAMES LOVELL,  
SAMUEL HOLTEN.

\* From the circumstance of delegates from the same State having signed the Articles of Confederation at different times, as appears by the dates, it is probable they affixed their names as they happened to be present in Congress, after they had been authorized by their constituents.

*On the part and behalf of the State of Rhode Island and Providence Plantations.*

WILLIAM ELLERY,  
HENRY MARCHANT,

JOHN COLLINS.

*On the part and behalf of the State of Connecticut.*

ROGER SHERMAN,  
SAMUEL HUNTINGTON,  
OLIVER WOLCOTT,

TITUS HOSMER,  
ANDREW ADAMS.

*On the part and behalf of the State of New York.*

JAS. DUANE,  
FRA. LEWIS,

WM. DUER,  
GOUV. MORRIS.

*On the part and in behalf of the State of New Jersey, Novr. 26, 1778.*

JNO. WITHERSPOON,

NATHL. SCUDDER.

*On the part and behalf of the State of Pennsylvania.*

ROBT. MORRIS,  
DANIEL ROBERDEAU,  
JONA. BAYARD SMITH,

WILLIAM CLINGAN,  
JOSEPH REED, 22d July, 1778.

*On the part & behalf of the State of Delaware.*

THO. M'KEAN, Feby. 12, 1779.  
JOHN DICKINSON, May 5th, 1779.

NICHOLAS VAN DYKE.

*On the part and behalf of the State of Maryland.*

JOHN HANSON, March 1, 1781.

DANIEL CARROLL, Mar. 1, 1781.

*On the part and behalf of the State of Virginia.*

RICHARD HENRY LEE,  
JOHN BANISTER,  
THOMAS ADAMS,

JNO. HARVIE,  
FRANCIS LIGHTFOOT LEE.

*On the part and behalf of the State of No. Carolina.*

JOHN PENN, July 21st, 1778.  
CORNS. HARNETT,

JNO. WILLIAMS.

*On the part & behalf of the State of South Carolina.*

HENRY LAURENS,  
WILLIAM HENRY DRAYTON,  
JNO. MATHEWS,

RICHD. HUTSON,  
THOS. HEYWARD, Junr.

*On the part & behalf of the State of Georgia.*

JNO. WALTON, 24th July, 1778.  
EDWD. TELFAIR,

EDWD. LANGWORTHY.

## THE NORTHWEST TERRITORIAL GOVERNMENT—1787.

[THE CONFEDERATE CONGRESS, JULY 13, 1787.]

*An Ordinance for the government of the territory of the United States northwest of the river Ohio.*

SECTION 1. *Be it ordained by the United States in Congress assembled,* That the said territory, for the purpose of temporary government, be one district, subject, however, to be divided into two districts, as future circumstances may, in the opinion of Congress, make it expedient.

SEC. 2. *Be it ordained by the authority aforesaid,* That the estates both of resident and non-resident proprietors in the said territory, dying intestate, shall descend to, and be distributed among, their children and the descendants of a deceased child in equal parts, the descendants of a deceased child or grandchild to take the share of their deceased parent in equal parts among them; and where there shall be no children or descendants, then in equal parts to the next of kin, in equal degree; and among collaterals, the children of a deceased brother or sister of the intestate shall have, in equal parts among them, their deceased parent's share; and there shall, in no case, be a distinction between kindred of the whole and half blood; saving in all cases to the widow of the intestate, her third part of the real estate for life, and one-third part of the personal estate; and this law relative to descents and dower, shall remain in full force until altered by the legislature of the district. And until the governor and judges shall adopt laws as hereinafter mentioned, estates in the said territory may be devised or bequeathed by wills in writing, signed and sealed by him or her in whom the estate may be, (being of full age,) and attested by three witnesses; and real estates may be conveyed by lease and release, or bargain and sale, signed, sealed, and delivered by the person, being of full age, in whom the estate may be, and attested by two witnesses, provided such wills be duly proved, and such conveyances be acknowledged, or the execution thereof duly proved, and be recorded within one year after proper magistrates, courts, and registers, shall be appointed for that purpose; and personal property may be transferred by delivery, saving, however, to the French and Canadian inhabitants, and other settlers of the Kaskaskies, Saint Vincents, and the neighboring villages, who have heretofore professed themselves citizens of Virginia, their laws and customs now in force among them, relative to the descent and conveyance of property.

SEC. 3. *Be it ordained by the authority aforesaid,* That there shall be appointed, from time to time, by Congress, a governor, whose commission shall continue in force for the term of three years, unless sooner revoked by Congress; he shall reside in the district, and have a freehold estate therein, in one thousand acres of land, while in the exercise of his office.

SEC. 4. There shall be appointed from time to time, by Congress, a secretary, whose commission shall continue in force for four years, unless sooner revoked; he shall reside in the district, and have a freehold estate therein, in five hundred acres of land, while in the exercise of his office. It shall be his duty to keep and preserve the acts and laws passed by the legislature, and the public records of the district, and the proceedings of the governor in his executive department, and transmit authentic copies of such acts and proceedings every six months to the Secretary of Congress. There shall also be appointed a court, to consist of three judges, any two of whom to form a court, who shall have a common-law jurisdiction, and reside in the district, and have each therein a freehold estate, in five hundred acres of land, while in the exercise of their offices; and their commissions shall continue in force during good behavior.

SEC. 5. The governor and judges, or a majority of them, shall adopt and publish in the district such laws of the original States, criminal and civil, as may be necessary, and best suited to the circumstances of the district, and report them to Congress from time to time, which laws shall be in force in the district until the organization of the general



assembly therein, unless disapproved of by Congress; but afterwards the legislature shall have authority to alter them as they shall think fit.

SEC. 6. The governor, for the time being, shall be commander-in-chief of the militia, appoint and commission all officers in the same below the rank of general officers; all general officers shall be appointed and commissioned by Congress.

SEC. 7. Previous to the organization of the general assembly the governor shall appoint such magistrates, and other civil officers, in each county or township, as he shall find necessary for the preservation of the peace and good order in the same. After the general assembly shall be organized the powers and duties of magistrates and other civil officers shall be regulated and defined by the said assembly; but all magistrates and other civil officers, not herein otherwise directed, shall, during the continuance of this temporary government, be appointed by the governor.

SEC. 8. For the prevention of crimes and injuries, the laws to be adopted or made shall have force in all parts of the district, and for the execution of process, criminal and civil, the governor shall make proper divisions thereof; and he shall proceed, from time to time, as circumstances may require, to lay out the parts of the district in which the Indian titles shall have been extinguished, into counties and townships, subject, however, to such alterations as may thereafter be made by the legislature.

SEC. 9. So soon as there shall be five thousand free male inhabitants, of full age, in the district, upon giving proof thereof to the governor, they shall receive authority, with time and place, to elect representatives from their counties or townships, to represent them in the general assembly: *Provided*, That for every five hundred free male inhabitants there shall be one representative, and so on, progressively, with the number of free male inhabitants, shall the right of representation increase, until the number of representatives shall amount to twenty-five; after which the number and proportion of representatives shall be regulated by the legislature: *Provided*, That no person be eligible or qualified to act as a representative, unless he shall have been a citizen of one of the United States three years, and be a resident in the district, or unless he shall have resided in the district three years; and, in either case, shall likewise hold in his own right, in fee-simple, two hundred acres of land within the same: *Provided also*, That a freehold in fifty acres of land in the district, having been a citizen of one of the States, and being resident in the district, or the like freehold and two years' residence in the district, shall be necessary to qualify a man as an elector of a representative.

SEC. 10. The representatives thus elected shall serve for the term of two years; and in case of the death of a representative, or removal from office, the governor shall issue a writ to the county or township, for which he was a member, to elect another in his stead, to serve for the residue of the term.

SEC. 11. The general assembly, or legislature, shall consist of the governor, legislative council, and a house of representatives. The legislative council shall consist of five members, to continue in office five years, unless sooner removed by Congress; any three of whom to be a quorum; and the members of the council shall be nominated and appointed in the following manner, to wit: As soon as representatives shall be elected the governor shall appoint a time and place for them to meet together, and when met they shall nominate ten persons, resident in the district, and each possessed of a freehold in five hundred acres of land, and return their names to Congress, five of whom Congress shall appoint and commission to serve as aforesaid; and whenever a vacancy shall happen in the council, by death or removal from office, the house of representatives shall nominate two persons qualified as aforesaid, for each vacancy, and return their names to Congress, one of whom Congress shall appoint and commission for the residue of the term; and every five years, four months at least before the expiration of the time of service of the members of the council, the said house shall nominate ten persons, qualified as aforesaid, and return their names to Congress, five of whom Congress shall appoint and commission to serve as members of the council five years, unless sooner removed. And the governor, legislative council, and house of representatives shall have authority to make laws in all cases for the good government of the district, not repugnant to the principles and articles in this ordinance established and declared. And all bills, having passed by a majority in the house, and by a majority in the council, shall be referred to the governor for his assent; but no bill, or legislative act whatever, shall be of any force without his assent. The governor shall have power to convene, prorogue, and dissolve the general assembly when, in his opinion, it shall be expedient.

SEC. 12. The governor, judges, legislative council, secretary, and such other officers as Congress shall appoint in the district, shall take an oath or affirmation of fidelity, and

of office; the governor before the President of Congress, and all other officers before the governor. As soon as a legislature shall be formed in the district, the council and house assembled, in one room, shall have authority, by joint ballot, to elect a delegate to Congress, who shall have a seat in Congress, with a right of debating, but not of voting, during this temporary government.

SEC. 13. And for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws and constitutions, are erected; to fix and establish those principles as the basis of all laws, constitutions, and governments, which forever hereafter shall be formed in the said territory; to provide, also, for the establishment of States, and permanent government therein, and for their admission to a share in the Federal councils on an equal footing with the original States, at as early periods as may be consistent with the general interest:

SEC. 14. It is hereby ordained and declared, by the authority aforesaid, that the following articles shall be considered as articles of compact, between the original States and the people and States in the said territory, and forever remain unalterable, unless by common consent, to wit:

#### ARTICLE I.

No person, demeaning himself in a peaceable and orderly manner, shall ever be molested on account of his mode of worship, or religious sentiments, in the said territories.

#### ARTICLE II.

The inhabitants of the said territory shall always be entitled to the benefits of the writs of *habeas corpus*, and of the trial by jury; of a proportionate representation of the people in the legislature, and of judicial proceedings according to the course of the common law. All persons shall be bailable, unless for capital offenses, where the proof shall be evident, or the presumption great. All fines shall be moderate; and no cruel or unusual punishments shall be inflicted. No man shall be deprived of his liberty or property, but by the judgment of his peers, or the law of the land, and should the public exigencies make it necessary, for the common preservation, to take any person's property, or to demand his particular services, full compensation shall be made for the same. And, in the just preservation of rights and property, it is understood and declared, that no law ought ever to be made or have force in the said territory, that shall, in any manner whatever, interfere with or affect private contracts, or engagements, *bona fide*, and without fraud previously formed.

#### ARTICLE III.

Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged. The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and in their property, rights, and liberty they never shall be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity, shall, from time to time, be made, for preventing wrongs being done to them, and for preserving peace and friendship with them.

#### ARTICLE IV.

The said territory, and the States which may be formed therein, shall forever remain a part of this confederacy of the United States of America, subject to the Articles of Confederation, and to such alterations therein as shall be constitutionally made; and to all the acts and ordinances of the United States in Congress assembled, conformable thereto. The inhabitants and settlers in the said territory shall be subject to pay a part of the Federal debts, contracted, or to be contracted, and a proportional part of the expenses of government to be apportioned on them by Congress, according to the same common rule and measure by which apportionments thereof shall be made on the other States; and the taxes for paying their proportion shall be laid and levied by the authority and direction of the legislatures of the district, or districts, or new States, as in the original States, within the time agreed upon by the United States in Congress assembled. The legislatures of those districts, or new States, shall never interfere with the primary disposal of the soil by the United States in Congress assembled, nor with any regulations

Congress may find necessary for securing the title in such soil to the *bona fide* purchasers. No tax shall be imposed on lands the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents. The navigable waters leading into the Mississippi and Saint Lawrence, and the carrying places between the same, shall be common highways, and forever free, as well to the inhabitants of the said territory as to the citizens of the United States, and those of any other States that may be admitted into the confederacy, without any tax, impost, or duty therefor.

#### ARTICLE V.

There shall be formed in the said territory not less than three nor more than five States; and the boundaries of the States, as soon as Virginia shall alter her act of cession and consent to the same, shall become fixed and established as follows, to wit: The western State, in the said territory, shall be bounded by the Mississippi, the Ohio, and the Wabash Rivers; a direct line drawn from the Wabash and Post Vincents, due north, to the territorial line between the United States and Canada; and by the said territorial line to the Lake of the Woods and Mississippi. The middle State shall be bounded by the said direct line, the Wabash from Post Vincents to the Ohio, by the Ohio, by a direct line drawn due north from the mouth of the Great Miami to the said territorial line, and by the said territorial line. The eastern State shall be bounded by the last-mentioned direct line, the Ohio, Pennsylvania, and the said territorial line: *Provided, however,* And it is further understood and declared, that the boundaries of these three States shall be subject so far to be altered, that, if Congress shall hereafter find it expedient, they shall have authority to form one or two States in that part of the said territory which lies north of an east and west line drawn through the southerly bend or extreme of Lake Michigan. And whenever any of the said States shall have sixty thousand free inhabitants therein, such State shall be admitted, by its delegates, into the Congress of the United States, on an equal footing with the original States, in all respects whatever; and shall be at liberty to form a permanent constitution and State government: *Provided,* The constitution and government, so to be formed, shall be republican, and in conformity to the principles contained in these articles, and, so far as it can be consistent with the general interest of the confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the State than sixty thousand.

#### ARTICLE VI.

There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted: *Provided always,* That any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original States, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service as aforesaid.

*Be it ordained by the authority aforesaid,* That the resolutions of the 23d of April, 1784, relative to the subject of this ordinance, be, and the same are hereby, repealed, and declared null and void.

Done by the United States, in Congress assembled, the 13th day of July, in the year of our Lord 1787, and of their sovereignty and independence the twelfth.

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Wallace v. Parker, 6 Pet., 680; Jones v. Van Zandt, 5 How., 215; Strador et al. v. Graham, 10 How., 82; Pennsylvania v. Wheeling Bridge Company, 18 How., 421; Bates v. Brown, 5 Wall., 710; Messenger v. Mason, 10 Wall., 507; Clinton et al. v. Englebrecht, 13 Wall., 434; Langdean v. Hanes, 21 Wall., 521; Morton v. Nebraska, 21 Wall., 660.



## CONSTITUTION OF THE UNITED STATES—1787.\*

We **THE PEOPLE** of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this CONSTITUTION for the United States of America.

Chisholm v. Georgia, 2 Dall., 419; McCulloch v. State of Maryland, 4 Wh., 316; Brown v. Maryland, 12 Wh., 419; Barron v. The Mayor and City Council of Baltimore, 7 Pet., 243; Lane County v. Oregon, 7 Wall., 71; Texas v. White et al., 7 Wall, 700.

### ARTICLE I.

**SECTION. 1.** All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Hayburn's case (notes), 2 Dall., 409.

**SECTION. 2.** 'The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

\* In May, 1785, a committee of Congress made a report recommending an alteration in the Articles of Confederation, but no action was taken on it, and it was left to the State Legislatures to proceed in the matter. In January, 1786, the Legislature of Virginia passed a resolution providing for the appointment of five commissioners, who, or any three of them, should meet such commissioners as might be appointed in the other States of the Union, at a time and place to be agreed upon, to take into consideration the trade of the United States; to consider how far a uniform system in their commercial regulations may be necessary to their common interest and their permanent harmony; and to report to the several States such an act, relative to this great object, as, when ratified by them, will enable the United States in Congress effectually to provide for the same. The Virginia commissioners, after some correspondence, fixed the first Monday in September as the time, and the city of Annapolis as the place for the meeting, but only four other States were represented, viz: Delaware, New York, New Jersey, and Pennsylvania; the commissioners appointed by Massachusetts, New Hampshire, North Carolina, and Rhode Island failed to attend. Under the circumstances of so partial a representation, the commissioners present agreed upon a report, (drawn by Mr. Hamilton, of New York,) expressing their unanimous conviction that it might essentially tend to advance the interests of the Union if the States by which they were respectively delegated would concur, and use their endeavors to procure the concurrence of the other States, in the appointment of commissioners to meet at Philadelphia on the second Monday of May following, to take into consideration the situation of the United States; to devise such further provisions as should appear to them necessary to render the Constitution of the Federal Government adequate to the exigencies of the Union; and to report such an act for that purpose to the United States in Congress assembled as, when agreed to by them and afterwards confirmed by the Legislatures of every State, would effectually provide for the same.

Congress, on the 21st of February, 1787, adopted a resolution in favor of a convention, and the Legislatures of those States which had not already done so (with the exception of Rhode Island) promptly appointed delegates. On the 25th of May, seven States having convened, George Washington, of Virginia, was unanimously elected President, and the consideration of the proposed constitution was commenced. On the 17th of September, 1787, the Constitution as engrossed and agreed upon was signed by all the members present, except Mr. Gerry, of Massachusetts, and Messrs. Mason and Randolph, of Virginia. The president of the convention transmitted it to Congress, with a resolution stating how the proposed Federal Government should be put in operation, and an explanatory letter. Congress, on the 28th of September, 1787, directed the Constitution so framed, with the resolutions and letter concerning the same, to "be transmitted to the several Legislatures in order to be submitted to a convention of delegates chosen in each State by the people thereof, in conformity to the resolves of the convention."

On the 4th of March, 1789, the day which had been fixed for commencing the operations of Government under the new Constitution, it had been ratified by the conventions chosen in each State to consider it, as follows: Delaware, December 7, 1787; Pennsylvania, December 12, 1787; New Jersey, December 18, 1787; Georgia, January 2, 1788; Connecticut, January 9, 1788; Massachusetts, February 6, 1788; Maryland, April 28, 1788; South Carolina, May 23, 1788; New Hampshire, June 21, 1788; Virginia, June 26, 1788; and New York, July 26, 1788.

The President informed Congress, on the 28th of January, 1790, that South Carolina had ratified the Constitution November 21, 1789; and he informed Congress on the 1st of June, 1790, that Rhode Island had ratified the Constitution May 29, 1789. Vermont, in convention, ratified the Constitution January 10, 1789, and was, by an act of Congress approved February 19, 1791, "received and admitted into this Union as a new and entire member of the United States."

<sup>1</sup> No Person shall be a Representative who shall not have attained to the Age of twenty-five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

<sup>2</sup> [Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons.] The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

*Veazie Bank v. Fenno*, 8 Wall., 533; *Scholey v. Rew*, 23 Wall., 331.

<sup>3</sup> When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

<sup>4</sup> The House of Representatives shall chuse their Speaker and Other officers; and shall have the sole Power of Impeachment.

SECTION. 3. <sup>1</sup> The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have one vote.

<sup>2</sup> Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one-third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

<sup>3</sup> No Person shall be a Senator who shall not have attained to the Age of thity Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

<sup>4</sup> The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

<sup>5</sup> The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

<sup>6</sup> The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

<sup>7</sup> Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

SECTION. 4. <sup>1</sup> The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State, by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

<sup>2</sup> The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.

SECTION. 5. <sup>1</sup> Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

<sup>2</sup> Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behavior, and, with the Concurrence of two thirds, expel a Member.

*Anderson v. Dunn*, 6 Wh., 204.

<sup>3</sup> Each House shall keep a Journal of its Proceedings, and from time to time publish

\* The clause included in brackets is amended by the 14th amendment, 2d section, p. 31.

the same, excepting such Parts as may in their Judgment require secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those present, be entered on the Journal.

<sup>1</sup>Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

SECTION. 6. <sup>1</sup>The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

*Coxe v. M'Clenachan*, 3 Dall., 478.

<sup>2</sup>No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

SECTION. 7. <sup>1</sup>All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

<sup>2</sup>Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

<sup>3</sup>Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

SECTION. 8. <sup>1</sup>The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

*Hylton v. United States*, 3 Dall., 171; *McCulloch v. State of Maryland*, 4 Wh., 316; *Longboro' v. Blake*, 5 Wh., 317; *Osborn v. United States Bank*, 9 Wh., 738; *Weston et al. v. City Council of Charlestown*, 2 Pet., 449; *Dobbins v. The Commissioners of Erie County*, 16 Pet., 435; *License Cases*, 5 How., 504; *Cooley v. Board of Wardens of Port of Philadelphia et al.*, 12 How., 299; *McGuire v. The Commonwealth*, 3 Wall., 387; *Van Allen v. The Assessors*, 3 Wall., 573; *Bradley v. The People*, 4 Wall., 459.

*License Tax Cases*, 5 Wall., 462; *Penear v. The Commonwealth*, 5 Wall., 475; *Woodruff v. Parham*, 8 Wall., 123; *Hinson v. Lott*, 8 Wall., 148; *Veazie Bank v. Fenno*, 8 Wall., 533; *The Collector v. Day*, 11 Wall., 113; *United States v. Singer*, 15 Wall., 111; *State tax on foreign-held bonds*, 15 Wall., 300; *United States v. Railroad Company*, 17 Wall., 322; *Railroad Company v. Peniston*, 18 Wall., 5; *Scholay v. Rew*, 23 Wall., 331.

<sup>2</sup>To borrow Money on the credit of the United States;

*McCulloch v. The State of Maryland*, 4 Wh., 316; *Weston et al. v. The City Council of Charlestown*, 2 Pet., 449; *Bank of Commerce v. New York City*, 2 Black, 620; *Bank Tax Cases*, 2 Wall., 200; *The Banks v. The Mayor*, 7 Wall., 16; *Bank v. Supervisors*, 7 Wall., 26; *Hepburn v. Griswold*, 8 Wall., 603; *National Bank v. Commonwealth*, 9 Wall., 353; *Parker v. Davis*, 12 Wall., 457.

<sup>3</sup>To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

*Gibbons v. Ogden*, 9 Wh., 1; *Brown et al. v. State of Maryland*, 12 Wh., 419; *Wilson et al. v. Black Bird Creek Marsh Company*, 2 Pet., 245; *Worcester v. The State of Georgia*, 6 Pet., 515; *City of New York v. Miln*, 11 Pet., 102; *United States v. Coombs*, 12 Pet.,



72; *Holmes v. Jennison et al.*, 14 Pet., 504; *License Cases*, 5 How., 504; *Passenger Cases*, 7 How., 283; *Nathan v. Louisiana*, 8 How., 73; *Mager v. Grima et al.*, 8 How., 490; *United States v. Marigold*, 9 How., 560; *Cowley v. Board of Wardens of Port of Philadelphia*, 12 How., 299; *The Propeller Genesee Chief et al. v. Fitzhugh et al.*, 12 How., 443; *State of Pennsylvania v. The Wheeling Bridge Company*, 13 How., 518; *Veazie et al. v. Moor*, 14 How., 568; *Smith v. State of Maryland*, 18 How., 71; *State of Pennsylvania v. The Wheeling and Belmont Bridge Company et al.*, 18 How., 421; *Sinnitt v. Davenport*, 22 How., 227; *Foster et al. v. Davenport et al.*, 22 How., 244; *Conway et al. v. Taylor's ex.*, 1 Black, 603; *United States v. Holliday*, 3 Wall., 407; *Gilman v. Philadelphia*, 3 Wall., 713; *The Passaic Bridges*, 3 Wall., 782; *Steamship Company v. Port Wardens*, 6 Wall., 31; *Crandall v. State of Nevada*, 6 Wall., 35; *White's Bank v. Smith*, 7 Wall., 646; *Waring v. The Mayor*, 8 Wall., 110; *Paul v. Virginia*, 8 Wall., 168; *Thomson v. Pacific Railroad*, 9 Wall., 579; *Downham et al. v. Alexandria Council*, 10 Wall., 173; *The Clinton Bridge*, 10 Wall., 454; *The Daniel Ball*, 10 Wall., 557; *Liverpool Insurance Company v. Massachusetts*, 10 Wall., 566; *The Montello*, 11 Wall., 411; *Ex parte McNeil*, 13 Wall., 236; *State freight-tax*, 15 Wall., 232; *State tax on railway gross receipts*, 15 Wall., 284; *Osborn v. Mobile*, 16 Wall., 479; *Railroad Company v. Fuller*, 17 Wall., 560; *Bartemeyer v. Iowa*, 18 Wall., 129; *The Delaware railroad tax*, 18 Wall., 206; *Peete v. Morgan*, 19 Wall., 581; *Railroad Company v. Richmond*, 19 Wall., 584; *Railroad Company v. Maryland*, 21 Wall., 456; *The Lottawanna*, 21 Wall., 558; *Henderson et al. v. The Mayor of the City of New York*, 92 U. S., 259; *Chy Lung v. Freeman et al.*, 92 U. S., 275; *South Carolina v. Georgia et al.*, 93 U. S., 4; *Sherlock et al. v. Alling, adm.*, 93 U. S., 99; *United States v. Forty-three Gallons of Whisky, etc.*, 93 U. S., 188; *Foster v. Master and Wardens of the Port of New Orleans*, 94 U. S., 246.

<sup>4</sup>To establish an uniform Rule of Naturalization,<sup>1</sup> and uniform Laws on the subject of Bankruptcies throughout the United States;<sup>2</sup>

<sup>1</sup>*Sturgis v. Crowningshield*, 4 Wh., 122; <sup>2</sup>*McMillan v. McNeil*, 4 Wh., 209; <sup>3</sup>*Farmers and Mechanics' Bank, Pennsylvania, v. Smith*, 6 Wh., 131; <sup>4</sup>*Ogden v. Saunders*, 12 Wh., 213; <sup>5</sup>*Boyle v. Zacharie and Turner*, 6 Pet., 348; <sup>6</sup>*Gassies v. Ballou*, 6 Pet., 761; <sup>7</sup>*Beers et al. v. Houghton*, 9 Pet., 329; <sup>8</sup>*Suydam et al. v. Broadnax*, 14 Pet., 67; <sup>9</sup>*Cook v. Moffat et al.*, 5 How., 295; <sup>10</sup>*Dred Scott v. Sanford*, 19 How., 393.

<sup>5</sup>To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

*Briscoe v. The Bank of the Commonwealth of Kentucky*, 11 Pet., 257; *Fox v. The State of Ohio*, 5 How., 410; *United States v. Marigold*, 9 How., 560.

<sup>6</sup>To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

*Fox v. The State of Ohio*, 5 How., 410; *United States v. Marigold*, 9 How., 560.

<sup>7</sup>To establish Post Offices and post Roads;

*State of Pennsylvania v. The Wheeling and Belmont Bridge Company*, 18 How., 421.

<sup>8</sup>To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

*Grant et al. v. Raymond*, 6 Pet., 218; *Wheaton et als. v. Peters et als.*, 8 Pet., 591.

<sup>9</sup>To constitute Tribunals inferior to the supreme Court;

<sup>10</sup>To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

*United States v. Palmer*, 3 Wh., 610; *United States v. Wiltberger*, 5 Wh., 76; *United States v. Smith*, 5 Wh., 153; *United States v. Pirates*, 5 Wh., 184.

<sup>11</sup>To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

*Brown v. United States*, 8 Cr., 110; *American Insurance Company et al. v. Canter* (356 bales cotton), 1 Pet., 511; *Mrs. Alexander's cotton*, 2 Wall., 404; *Miller v. United States*, 11 Wall., 268; *Tyler v. Defrees*, 11 Wall., 331; *Stewart v. Kahn*, 11 Wall., 493; *Hamilton v. Dillin*, 21 Wall., 73; *Laman, ex. v. Browne et al.*, 92 U. S., 187.

<sup>12</sup>To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

*Crandall v. State of Nevada*, 6 Wall., 35.

<sup>13</sup>To provide and maintain a Navy;

*United States v. Bevens*, 3 Wh., 336; *Dynes v. Hooper*, 20 How., 65.

<sup>14</sup>To make Rules for the Government and Regulation of the land and naval Forces;

<sup>15</sup>To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

*Houston v. Moore*, 5 Wh., 1; *Martin v. Mott*, 12 Wh., 19; *Luther v. Borden*, 7 How., 1; *Crandall v. State of Nevada*, 6 Wall., 35; *Texas v. White*, 7 Wall., 700.

<sup>16</sup>To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to

the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

*Houston v. Moore*, 5 Wh., 1; *Martin v. Mott*, 12 Wh., 19; *Luther v. Borden*, 7 How., 1.

<sup>17</sup>To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;—And

*Hepburn et al. v. Ellzey*, 2 Cr., 444; *Loughboro' v. Blake*, 5 Wh. 317; *Cohens v. Virginia*, 6 Wh., 264; *American Insurance Company v. Canter* (356 bales cotton), 1 Pet., 511; *Kendall, Postmaster-General, v. The United States*, 12 Pet., 524; *United States v. Dewitt*, 9 Wall., 41; *Dunphy v. Kleinsmith et al.*, 11 Wall., 610; *Willard v. Presbury*, 14 Wall., 676; *Phillips v. Payne*, 92 U. S., 130; *United States v. Fox*, 94 U. S., 315.

<sup>18</sup>To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

*McCulloch v. The State of Maryland*, 4 Wh., 316; *Wayman v. Southard*, 10 Wh., 1; *Bank of United States v. Halstead*, 10 Wh., 51; *Hepburn v. Griswold*, 8 Wall., 603; *National Bank v. Commonwealth*, 9 Wall., 353; *Thomson v. Pacific Railroad*, 9 Wall., 579; *Parker v. Davis*, 12 Wall., 457; *Railroad Company v. Johnson*, 15 Wall., 195; *Railroad Company v. Peniston*, 18 Wall., 5.

SECTION. 9. <sup>1</sup>The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

*Dred Scott v. Sanford*, 19 How., 393.

<sup>2</sup>The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

*United States v. Hamilton*, 3 Dall., 17; *Hepburn et al. v. Ellzey*, 2 Cr. 445; *Ex parte Bollman and Swartwout*, 4 Cr., 75; *Ex parte Kearney*, 7 Wh., 38; *Ex parte Tobias Watkins*, 3 Pet., 192; *Ex parte Milburn*, 9 Pet., 704; *Holmes v. Jennison et al.*, 14 Pet., 540; *Ex parte Dorr*, 3 How., 103; *Luther v. Borden*, 7 How., 1; *Ableman v. Booth and United States v. Booth*, 21 How., 506; *Ex parte Vallandigham*, 1 Wall., 243; *Ex parte Mulligan*, 4 Wall., 2; *Ex parte McCardle*, 7 Wall., 506; *Ex parte Yerger*, 8 Wall., 85; *Tarble's case*, 13 Wall., 397; *Ex parte Lange*, 18 Wall., 163; *Ex parte Parks*, 93 U. S., 18; *Ex parte Karstendick*, 93 U. S., 396.

<sup>3</sup>No Bill of Attainder or ex post facto Law shall be passed.

*Fletcher v. Peck*, 6 Cr., 87; *Ogden v. Saunders*, 12 Wh., 213; *Watson et al. v. Mercer*, 8 Pet., 88; *Carpenter et al. v. Commonwealth of Pennsylvania*, 17 How., 456; *Locke v. New Orleans*, 4 Wall., 172; *Cummings v. The State of Missouri*, 4 Wall., 277; *Ex parte Garland*, 4 Wall., 333; *Drehman v. Stifle*, 8 Wall., 595; *Klinger v. State of Missouri*, 13 Wall., 257; *Pierce v. Carskadon*, 16 Wall., 234.

<sup>4</sup>No Capitation, or other direct, tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

*License Tax Cases*, 5 Wall., 462.

<sup>5</sup>No Tax or Duty shall be laid on Articles exported from any State.

*Cooley v. Board of Wardens of Port of Philadelphia*, 12 How., 299; *Page v. Burgess*, collector, 92 U. S., 372.

<sup>6</sup>No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

*Cooley v. Board of Wardens of Port of Philadelphia et al.*, 12 How., 299; *State of Pennsylvania v. Wheeling and Belmont Bridge Company et al.*, 18 How., 421; *Munn v. Illinois*, 94 U. S., 113.

<sup>7</sup>No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

<sup>8</sup>No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

SECTION. 10. <sup>1</sup>No State shall enter into any Treaty, Alliance, or Confederation; grant

Letters of Marque and Reprisal; coin Money; emit Bills of Credit;<sup>1</sup> make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law,<sup>2</sup> or Law impairing the Obligation of Contracts,<sup>3</sup> or grant any Title of Nobility.

<sup>1</sup>Calder and wife v. Bull and wife, 3 Dall., 386; <sup>2</sup>Fletcher v. Peck, 6 Cr., 87; <sup>3</sup>State of New Jersey v. Wilson, 7 Cr., 164; <sup>4</sup>Sturgis v. Crowningshield, 4 Wh., 122; <sup>5</sup>McMillan v. McNeil, 4 Wh., 209; <sup>6</sup>Dartmouth College v. Woodward, 4 Wh., 518; <sup>7</sup>Owings v. Speed, 5 Wh., 420; <sup>8</sup>Farmers and Mechanics' Bank v. Smith, 6 Wh., 131; <sup>9</sup>Green et al. v. Biddle, 8 Wh., 1; <sup>10</sup>Ogden v. Saunders, 12 Wh., 213; <sup>11</sup>Mason v. Haile, 12 Wh., 370; <sup>12</sup>Satterlee v. Matthewson, 2 Pet., 380; <sup>13</sup>Hart v. Lamphire, 3 Pet., 280; <sup>14</sup>Craig et al. v. State of Missouri, 4 Pet., 410; <sup>15</sup>Providence Bank v. Billings and Pitman, 4 Pet., 514; <sup>16</sup>Byrne v. State of Missouri, 8 Pet., 40; <sup>17</sup>Watson v. Mercer, 8 Pet., 88; <sup>18</sup>Mumma v. Potomac Company, 8 Pet., 281; <sup>19</sup>Beers v. Haughton, 9 Pet., 329; <sup>20</sup>Briscoe et al. v. The Bank of the Commonwealth of Kentucky, 11 Pet., 257; <sup>21</sup>The Proprietors of Charles River Bridge v. The Proprietors of Warren Bridge, 11 Pet., 420; <sup>22</sup>Armstrong v. The Treasurer of Athens Company, 16 Pet., 281; <sup>23</sup>Bronson v. Kinzie et al., 1 How., 311; <sup>24</sup>McCracken v. Hayward, 2 How., 608; <sup>25</sup>Gordon v. Appeal Tax Court, 3 How., 133; <sup>26</sup>State of Maryland, v. Baltimore and Ohio R. Co., 3 How., 534; <sup>27</sup>Neil, Moore & Co. v. State of Ohio, 3 How., 720; <sup>28</sup>Cook v. Moffatt, 5 How., 295; <sup>29</sup>Planters' Bank v. Sharp et al., 6 How., 301; <sup>30</sup>West River Bridge Company v. Dix et al., 6 How., 507; <sup>31</sup>Crawford et al. v. Branch Bank of Mobile, 7 How., 279; <sup>32</sup>Woodruff v. Trapnall, 10 How., 190; <sup>33</sup>Paup et al. v. Drew, 10 How., 218; <sup>34</sup>Baltimore and Susquehanna R. R. Co. v. Nesbitt et al., 10 How., 395; <sup>35</sup>Butler et al. v. Pennsylvania, 10 How., 402; <sup>36</sup>Darlington et al. v. The Bank of Alabama, 13 How., 12; <sup>37</sup>Richmond, &c., R. R. Co. v. The Louise R. R. Co., 13 How., 71; <sup>38</sup>Trustees for Vincennes University v. State of Indiana, 14 How., 268; <sup>39</sup>Curran v. State of Arkansas et al., 15 How., 304; <sup>40</sup>State Bank of Ohio v. Knoop, 16 How., 369; <sup>41</sup>Carpenter et al. v. Commonwealth of Pennsylvania, 17 How., 456; <sup>42</sup>Dodge v. Woolsey, 18 How., 331; <sup>43</sup>Beers v. State of Arkansas, 20 How., 527; <sup>44</sup>Aspinwall et al. v. Commissioners of County of Daviess, 22 How., 364; <sup>45</sup>Rector of Christ Church, Philadelphia, v. County of Philadelphia, 24 How., 300; <sup>46</sup>Howard v. Bugbee, 24 How., 461; <sup>47</sup>Jefferson Branch Bank v. Skelley, 1 Black, 436; <sup>48</sup>Franklin Branch Bank v. State of Ohio, 1 Black, 474; <sup>49</sup>Trustees of the Wabash and Erie Canal Company v. Beers, 2 Black, 448; <sup>50</sup>Gilman v. City of Sheboygan, 2 Black, 510; <sup>51</sup>Bridge Proprietors v. Hoboken Company, 1 Wall., 116; <sup>52</sup>Hawthorne v. Calef, 2 Wall., 10; <sup>53</sup>The Binghamton Bridge, 3 Wall., 51; <sup>54</sup>The Turnpike Company v. The State, 3 Wall., 210; <sup>55</sup>Locke v. City of New Orleans, 4 Wall., 172; <sup>56</sup>Railroad Company v. Rock, 4 Wall., 177; <sup>57</sup>Cummings v. State of Missouri, 4 Wall., 277; <sup>58</sup>Ex parte Garland, 4 Wall., 333; <sup>59</sup>Von Hoffman v. City of Quincy, 4 Wall., 535; <sup>60</sup>Mulligan v. Corbin, 7 Wall., 487; <sup>61</sup>Furman v. Nichol, 8 Wall., 44; <sup>62</sup>Home of the Friendless v. Rouse, 8 Wall., 430; <sup>63</sup>The Washington University v. Rouse, 8 Wall., 439; <sup>64</sup>Butz v. City of Muscatine, 8 Wall., 575; <sup>65</sup>Drehman v. Stifle, 8 Wall., 595; <sup>66</sup>Hepburn v. Griswold, 8 Wall., 603; <sup>67</sup>Gut v. The State, 9 Wall., 35; <sup>68</sup>Railroad Company v. McClure, 10 Wall., 511; <sup>69</sup>Parker v. Davis, 12 Wall., 457; <sup>70</sup>Curtis v. Whiting, 13 Wall., 68; <sup>71</sup>Pennsylvania College Cases, 13 Wall., 190; <sup>72</sup>Wilmington R. R. v. Reid, sheriff, 13 Wall., 264; <sup>73</sup>Salt Company v. East Saginaw, 13 Wall., 373; <sup>74</sup>White v. Hart, 13 Wall., 646; <sup>75</sup>Osborn v. Nicholson et al., 13 Wall., 654; <sup>76</sup>Railroad Company v. Johnson, 15 Wall., 195; <sup>77</sup>Case of the State tax on foreign-held bonds, 15 Wall., 300; <sup>78</sup>Tomlinson v. Jessup, 15 Wall., 454; <sup>79</sup>Tomlinson v. Branch, 15 Wall., 460; <sup>80</sup>Miller v. The State, 15 Wall., 478; <sup>81</sup>Holyoke Company v. Lyman, 15 Wall., 500; <sup>82</sup>Gunn v. Barry, 15 Wall., 610; <sup>83</sup>Humphrey v. Pegues, 16 Wall., 244; <sup>84</sup>Walker v. Whitehead, 16 Wall., 314; <sup>85</sup>Sohn v. Waterson, 17 Wall., 596; <sup>86</sup>Barings v. Dabney, 19 Wall., 1; <sup>87</sup>Head v. The University, 19 Wall., 526; <sup>88</sup>Pacific R. R. Co. v. Maguire, 20 Wall., 36; <sup>89</sup>Garrison v. The City of New York, 21 Wall., 196; <sup>90</sup>Ochiltree v. The Railroad Company, 21 Wall., 249; <sup>91</sup>Wilmington, &c., Railroad v. King, ex., 91 U. S., 3; <sup>92</sup>County of Moultrie v. Rockingham Ten Cent Savings Bank, 92 U. S., 631; <sup>93</sup>Home Insurance Company v. City Council of Augusta, 93 U. S., 116; <sup>94</sup>West Wisconsin R. R. Co. v. Supervisors, 93 U. S., 595.

<sup>1</sup>No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing it's inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and the Controul of the Congress.

McCulloch v. State of Maryland, 4 Wh., 316; Gibbons v. Ogden, 9 Wh., 1; Brown v. The State of Maryland, 12 Wh., 419; Mager v. Grima et al., 8 How., 490; Cooley v. Board of Wardens of Port of Philadelphia et al., 12 How., 299; Almy v. State of California, 24 How., 169; License Tax Cases, 5 Wall., 462; Crandall v. State of Nevada, 6 Wall., 35; Waring v. The Mayor, 8 Wall., 110; Woodruff v. Perham, 8 Wall., 123; Hinson v. Lott, 8 Wall., 148; State Tonnage Tax Cases, 12 Wall., 204; State tax on railway gross receipts, 15 Wall., 284; Inman Steamship Company v. Tinker, 94 U. S., 238.

<sup>2</sup>No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

Green v. Biddle, 8 Wh., 1; Poole et al. v. The Lessee of Fleeger et al., 11 Pet., 185; Cooley v. Board of Wardens of Port of Philadelphia et al., 12 How., 299; Peete v. Morgan, 19 Wall., 581; Cannon v. New Orleans, 20 Wall., 577; Inman Steamship Company v. Tinker, 94 U. S., 238.



## ARTICLE. II.

**SECTION. 1.** <sup>1</sup> The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows

<sup>2</sup> Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

*Chisholm, ex. v. Georgia, 2 Dall., 419; Leitensdorfer et al. v. Webb, 20 How., 176.*

[“The electors shall meet in their respective States, and vote by ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; A quorum for this Purpose shall consist of a Member or Members from two-thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice-President.”]

This clause has been superseded by the twelfth amendment, p. 30.

<sup>3</sup> The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

<sup>4</sup> No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

*English v. the Trustees of the Sailors' Snug Harbor, 3 Pet., 99.*

<sup>5</sup> In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation, or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

<sup>6</sup> The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

<sup>7</sup> Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:—“I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States.”

**SECTION. 2.** <sup>1</sup> The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.

*United States v. Wilson, 7 Pet., 150; Ex parte William Wells, 18 How., 307; Ex parte Garland, 4 Wall., 333; Armstrong's Foundry, 6 Wall., 766; The Grape Shot, 9 Wall., 129; United States v. Padelford, 9 Wall., 542; United States v. Klein, 13 Wall., 128; Armstrong v. The United States, 13 Wall., 152; Pargond v. The United States, 13 Wall., 156; Hamilton v. Dillin, 21 Wall., 73; Mechanics and Traders' Bank v. Union Bank, 22 Wall., 276; Lamar, ex. v. Browne et al., 92 U. S., 187; Wallach et al. v. Van Riswick, 92 U. S., 202.*

<sup>2</sup> He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and

by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law; but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

Ware v. Hylton et al., 3 Dall., 199; Marbury v. Madison, 1 Cr., 137; United States v. Kirkpatrick, 9 Wh., 720; American Insurance Company v. Canter (356 bales cotton), 1 Pet., 511; Foster and Elam v. Neilson, 2 Pet., 253; Cherokee Nation v. State of Georgia, 5 Pet., 1; Patterson v. Gwinn et al., 5 Pet., 233; Worcester v. State of Georgia, 6 Pet., 515; City of New Orleans v. De Armas et al., 9 Pet., 224; Holden v. Joy, 17 Wall., 211.

<sup>3</sup>The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

The United States v. Kirkpatrick et al., 9 Wh., 720.

SECTION. 3. He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

Marbury v. Madison, 1 Cr., 137; Kendall, Postmaster-General, v. The United States, 12 Pet., 524; Luther v. Borden, 7 How., 1; The State of Mississippi v. Johnson, President, 4 Wall., 475; Stewart v. Kahn, 11 Wall., 493.

SECTION. 4. The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

### ARTICLE III.

SECTION. 1. The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

Chisholm, ex., v. Georgia, 2 Dall., 419; Stuart v. Laird, 1 Cr., 299; United States v. Peters, 5 Cr., 115; Cohens v. Virginia, 6 Cr., 264; Martin v. Hunter's Lessee, 1 Wh., 304; Osborn v. United States Bank, 9 Wh., 738; Benner et al. v. Porter, 9 How., 235; The United States v. Ritchie, 17 How., 525; Murray's Lessee et al. v. Hoboken Land and Improvement Company, 18 How., 272; Ex parte Vallandigham, 1 Wall., 243.

SECTION. 2. <sup>1</sup>The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State;—between Citizens of different States,—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

Hayburn's case (note), 2 Dall., 410; Chisholm, ex., v. Georgia, 2 Dall., 419; Glass et al. v. Sloop Betsey, 3 Dall., 6; United States v. La Vengeance, 3 Dall., 297; Hollingsworth et al. v. Virginia, 3 Dall., 378; Mossman, ex., v. Higginson, 4 Dall., 12; Marbury v. Madison, 1 Cr., 137; Hepburn et al. v. Ellezley, 2 Cr., 444; United States v. Moore, 3 Cr., 159; Strawbridge et al. v. Curtiss et al., 3 Cr., 267; Ex parte Bollman and Swartwout, 4 Cr., 75; Rose v. Himely, 4 Cr., 241; Chappedelaine et al. v. Dechenaux, 4 Cr., 305; Hope Insurance Company v. Boardman et al., 5 Cr., 57; Bank of United States v. Devaux et al., 5 Cr., 61; Hodgson et als. v. Bowerbank et als., 5 Cr., 303; Owings v. Norwood's Lessee, 5 Cr., 344; Duroseau v. The United States, 6 Cr., 307; United States v. Hudson and Goodwin, 7 Cr., 32; Martin v. Hunter, 1 Wh., 304; Colson et al. v. Lewis, 2 Wh., 377; United States v. Bevans, 3 Wh., 336; Cohens v. Virginia, 6 Wh., 264; Ex parte Kearney, 7 Wh., 38; Matthews v. Zane, 7 Wh., 164; Osborn v. United States Bank, 9 Wh., 738; United States v. Ortega, 11 Wh., 467; American Insurance Company v. Canter (356 bales cotton), 1 Pet., 511; Jackson v. Twentyman, 2 Pet., 136; Cherokee Nation v. State of Georgia, 5 Pet., 1; State of New Jersey v. State of New York, 5 Pet., 283; Davis v. Packard et al., 6 Pet., 41; United States v. Arredondo et al., 6 Pet., 691; Davis v. Packard et al., 7 Pet., 276; Breedlove et al. v. Nickolet et al., 7 Pet., 413; Brown v.

Keene, 8 Pet., 112; Davis *v.* Packard et al., 8 Pet., 312; City of New Orleans *v.* De Armas et al., 9 Pet., 224; The State of Rhode Island *v.* The Commonwealth of Massachusetts, 12 Pet., 657; The Bank of Augusta *v.* Earle, 13 Pet., 519; The Commercial and Railroad Bank of Vicksburg *v.* Slocumb et al., 14 Pet., 60; Suydam et al. *v.* Broadnax, 14 Pet., 67; Prigg *v.* The Commonwealth of Pennsylvania, 16 Pet., 539; Louisville, Cincinnati and Charleston Railway Company *v.* Letson, 2 How., 497; Cary et als. *v.* Curtis, 3 How., 236; Warring *v.* Clark, 5 How., 441; Luther *v.* Borden, 7 How., 1; Sheldon et al. *v.* Sill, 8 How., 441; The Propeller Genesee Chief *v.* Fitzhugh et al., 12 How., 443; Fretz et al. *v.* Ball et al., 12 How., 466; Neves et al. *v.* Scott et al., 13 How., 268; State of Pennsylvania *v.* The Wheeling, &c., Bridge Company et al., 13 How., 518; Marshall *v.* The Baltimore and Ohio R. R. Co., 16 How., 314; The United States *v.* Guthrie, 17 How., 284; Smith *v.* State of Maryland, 18 How., 71; Jones et al. *v.* Leagne, 18 How., 76; Murray's Lessee et al. *v.* Hoboken Land and Improvement Company, 18 How., 272; Hyde et al. *v.* Stone, 20 How., 170; Irvine *v.* Marshall et al., 20 How., 558; Fenn *v.* Holmes, 21 How., 481; Moorewood et al. *v.* Erequist, 23 How., 491; Commonwealth of Kentucky *v.* Dennison, Governor, 24 How., 66; Ohio and Mississippi Railroad Company *v.* Wheeler, 1 Black, 286; The Steamer Saint Lawrence, 1 Black, 522; The Propeller Commerce, 1 Black, 574; Ex parte Vallandigham, 1 Wall., 243; Ex parte Milligan, 4 Wall., 1; The Moses Taylor, 4 Wall., 411; State of Mississippi *v.* Johnson, President, 4 Wall., 475; The Hine *v.* Trevor, 4 Wall., 555; City of Philadelphia *v.* The Collector, 5 Wall., 720; State of Georgia *v.* Stanton, 6 Wall., 50; Payne *v.* Hook, 7 Wall., 425; The Alicia, 7 Wall., 571; Ex parte Yerger, 8 Wall., 85; Insurance Company *v.* Dunham, 11 Wall., 1; Virginia *v.* West Virginia, 11 Wall., 39; Coal Company *v.* Blatchford, 11 Wall., 172; Railway Company *v.* Whitton's adm., 13 Wall., 270; Tarble's Case, 13 Wall., 397; Blyew et al. *v.* The United States, 13 Wall., 581; Davis *v.* Gray, 16 Wall., 203; Case of the Sewing Machine Companies, 18 Wall., 553; Insurance Company *v.* Morse, 20 Wall., 445; Vannevar *v.* Bryant, 21 Wall., 41; The Lottawanna, 21 Wall., 558; Gaines *v.* Fuentes et al., 92 U. S., 10; Miller *v.* Dows, 94 U. S., 444; Doyle *v.* Continental Insurance Company, 94 U. S., 535.

<sup>1</sup>In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

Chisholm, ex., *v.* Georgia, 2 Dall., 419; Wiscart et al. *v.* Dauchy, 3 Dall., 321; Marbury *v.* Madison, 1 Cr., 137; Duroseau et al. *v.* United States, 6 Cr., 307; Martin *v.* Hunter's Lessee, 1 Wh., 304; Cohens *v.* Virginia, 6 Wh., 234; Ex parte Kearney, 7 Wh., 38; Wayman *v.* Southard, 10 Wh., 1; Bank of the United States *v.* Halstead, 10 Wh., 51; United States *v.* Ortega, 11 Wh., 467; The Cherokee Nation *v.* The State of Georgia, 5 Pet., 1; Ex parte Crane et als., 5 Pet., 189; The State of New Jersey *v.* The State of New York, 5 Pet., 283; Ex parte Sibbald *v.* United States, 12 Pet., 488; The State of Rhode Island *v.* The State of Massachusetts, 12 Pet., 657; State of Pennsylvania *v.* The Wheeling, &c., Bridge Company, 13 How., 518; In re Kaine, 14 How., 103; Ableman *v.* Booth and United States *v.* Booth, 21 How., 506; Freeborn *v.* Smith, 2 Wall., 160; Ex parte McCordle, 6 Wall., 318; Ex parte McCordle, 7 Wall., 506; Ex parte Yerger, 8 Wall., 85; The Lucy, 8 Wall., 307; The Justices *v.* Murray, 9 Wall., 274; Pennsylvania *v.* Quicksilver Company, 10 Wall., 553; Murdock *v.* City of Memphis, 20 Wall., 590.

<sup>2</sup>The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

Ex parte Milligan, 4 Wall., 2.

SECTION. 3. <sup>1</sup>Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

United States *v.* The Insurgents, 2 Dall., 335; United States *v.* Mitchell, 2 Dall., 348; Ex parte Bollman and Swartwout, 4 Cr., 75; United States *v.* Aaron Burr, 4 Cr., 469.

<sup>2</sup>The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

Bigelow *v.* Forest, 9 Wall., 339; Day *v.* Micou, 18 Wall., 156; Ex parte Lange, 18 Wall., 163; Wallack et al. *v.* Van Riswick, 92 U. S., 202.

#### ARTICLE IV.

SECTION. 1. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by



general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

*Mills v. Duryee*, 7 Cr., 481; *Hampton v. McConnel*, 3 Wh., 234; *Mayhew v. Thatcher*, 6 Wh., 129; *Darby's Lessee v. Mayer*, 10 Wh., 465; *The United States v. Amedy*, 11 Wh., 392; *Caldwell et al. v. Carrington's heirs*, 9 Pet., 86; *M'Elmoyle v. Cohen*, 13 Pet., 312; *The Bank of Augusta v. Earle*, 13 Pet., 519; *Bank of the State of Alabama v. Dalton*, 9 How., 522; *D'Arcy v. Ketchum*, 11 How., 165; *Christmas v. Russell*, 5 Wall., 290; *Green v. Van Baskirk*, 7 Wall., 139; *Paul v. Virginia*, 8 Wall., 168; *Board of Public Works v. Columbia College*, 17 Wall., 521; *Thompson v. Whitman*, 18 Wall., 457.

SECTION. 2. <sup>1</sup>The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

*Bank of United States v. Devereaux*, 5 Cr., 61; *Gassies v. Ballou*, 6 Pet., 761; *The State of Rhode Island v. The Commonwealth of Massachusetts*, 12 Pet., 657; *The Bank of Augusta v. Earle*, 13 Pet., 519; *Moore v. The People of the State of Illinois*, 14 How., 13; *Conner et al. v. Elliott et al.*, 18 How., 591; *Dred Scott v. Sanford*, 19 How., 393; *Crandall v. State of Nevada*, 6 Wall., 35; *Woodruff v. Parham*, 8 Wall., 123; *Paul v. Virginia*, 8 Wall., 168; *Downham v. Alexandria Council*, 10 Wall., 173; *Liverpool Insurance Company v. Massachusetts*, 10 Wall., 566; *Ward v. Maryland*, 12 Wall., 418; *Slaughterhouse Cases*, 16 Wall., 36; *Bradwell v. The State*, 16 Wall., 130; *Chemung Bank v. Lowery*, 93 U. S., 72; *McCready v. Virginia*, 94 U. S., 391.

<sup>2</sup>A person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up to be removed to the State having Jurisdiction of the Crime.

*Holmes v. Jennison et al.*, 14 Pet., 540; *Commonwealth of Kentucky v. Dennison*, governor, 24 How., 66; *Taylor v. Tainter*, 16 Wall., 366.

<sup>3</sup>No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.

*Prigg v. The Commonwealth of Pennsylvania*, 16 Pet., 539; *Jones v. Van Zandt*, 5 How., 215; *Strader et al. v. Graham*, 10 How., 82; *Moore v. The People of the State of Illinois*, 14 How., 13; *Dred Scott v. Sanford*, 19 How., 393; *Ableman v. Booth and United States v. Booth*, 21 How., 506.

SECTION. 3. <sup>1</sup>New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

*American Insurance Company et al. v. Canter* (356 bales cotton), 1 Pet., 511; *Pollard's Lessee v. Hagan*, 3 How., 212; *Cross et al. v. Harrison*, 16 How., 164.

<sup>2</sup>The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

*McCulloch v. State of Maryland*, 4 Wh., 316; *American Insurance Company v. Canter*, 1 Pet., 511; *United States v. Gratiot et al.*, 14 Pet., 526; *United States v. Rogers*, 4 How., 567; *Cross et al. v. Harrison*, 16 How., 164; *Muckey et al. v. Coxe*, 18 How., 100; *Gibson v. Chateau*, 13 Wall., 92; *Clinton v. Englebert*, 13 Wall., 434; *Beall v. New Mexico*, 16 Wall., 535.

SECTION 4. The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

*Luther v. Borden*, 7 How., 1; *Texas v. White*, 7 Wall., 700.

## ARTICLE V.

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses

in the Ninth Section of the first Article: and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

ARTICLE VI.

<sup>1</sup>All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

<sup>2</sup>This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

Hayburn's case, 2 Dall., 409; Ware v. Hylton, 3 Dall., 199; Calder and wife v. Bull and wife, 3 Dall., 386; Marbury v. Madison, 1 Cr., 137; Chirac v. Chirac, 2 Wh., 259; McCulloch v. The State of Maryland, 4 Wh., 316; Society v. New Haven, 8 Wh., 464; Gibbons v. Ogden, 9 Wh., 1; Foster and Elam v. Neilson, 2 Pet., 253; Buckner v. Finley, 2 Pet., 586; Worcester v. State of Georgia, 6 Pet., 515; Kennett et al. v. Chambers, 14 How., 38; Dodge v. Woolsey, 18 How., 331; State of New York v. Dibble, 21 How., 366; Ableman v. Booth and United States v. Booth, 21 How., 506; Sinnot v. Davenport, 22 How., 227; Foster v. Davenport, 22 How., 244; Haver v. Yaker, 9 Wall., 32.

<sup>3</sup>The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

Ex parte Garland, 4 Wall., 333.

ARTICLE VII.

The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

DONE in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven, and of the Independence of the United States of America the Twelfth **In Witness** whereof We have hereunto subscribed our Names,

G<sup>o</sup>: WASHINGTON—

*Presidt. and Deputy from Virginia*

*New Hampshire.*

JOHN LANGDON

NICHOLAS GILMAN

*Massachusetts.*

NATHANIEL GORHAM

RUFUS KING

*Connecticut.*

WM. SAML. JOHNSON

ROGER SHERMAN

*New York.*

ALEXANDER HAMILTON

*New Jersey.*

WIL: LIVINGSTON  
DAVID BREARLEY

WM. PATERSON  
JONA: DAYTON

*Pennsylvania.*

B. FRANKLIN  
THOMAS MIFFLIN  
ROBT. MORRIS  
GEO. CLYMER

THOS. FITZSIMONS  
JARED INGERSOLL  
JAMES WILSON  
GOUV MORRIS

*Delaware.*

GEO: READ  
 GUNNING BEDFORD JUN  
 JOHN DICKINSON

RICHARD BASSETT  
 JACO: BROOM

*Maryland.*

JAMES MCHENRY  
 DAN OF ST THOS JENIFER

DANL. CARROLL

*Virginia.*

JOHN BLAIR—

JAMES MADISON JR.

*North Carolina.*

WM. BLOUNT  
 RICHD. DOBBS SPAIGHT

HU WILLIAMSON.

*South Carolina.*

J. RUTLEDGE,  
 CHARLES COTESWORTH PINCKNEY

CHARLES PINCKNEY  
 PIERCE BUTLER.

*Georgia.*

WILLIAM FEW

ABR BALDWIN

Attest

WILLIAM JACKSON *Secretary*

ARTICLES IN ADDITION TO, AND AMENDMENT OF, THE CONSTITUTION OF THE UNITED STATES OF AMERICA, PROPOSED BY CONGRESS, AND RATIFIED BY THE LEGISLATURES OF THE SEVERAL STATES PURSUANT TO THE FIFTH ARTICLE OF THE ORIGINAL CONSTITUTION.

## [ARTICLE I.]\*

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.

*Terrett et al. v. Taylor et al.*, 9 Cr., 43; *Vidal et al. v. Girard et al.*, 2 How., 127; *Ex parte Garland*, 4 Wall., 333; *United States v. Cruikshank et al.*, 92 U. S., 542.

## [ARTICLE II.]

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

## [ARTICLE III.]

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

## [ARTICLE IV.]

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall

\*The first ten amendments to the Constitution of the United States were proposed to the legislatures of the several States by the First Congress, on the 25th of September, 1789. They were ratified by the following States, and the notifications of ratification by the governors thereof were successively communicated by the President to Congress: New Jersey, November 20, 1789; Maryland, December 19, 1789; North Carolina, December 22, 1789; South Carolina, January 19, 1790; New Hampshire, January 25, 1790; Delaware, January 28, 1790; Pennsylvania, March 10, 1790; New York, March 27, 1790; Rhode Island, June 15, 1790; Vermont, November 3, 1791, and Virginia, December 15, 1791. There is no evidence on the Journals of Congress that the legislatures of Connecticut, Georgia, and Massachusetts ratified them.



issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

*Smith v. State of Maryland*, 18 How., 71; *Murray's Lessee et al. v. Hoboken Land and Improvement Company*, 18 How., 272; *Ex parte Milligan*, 4 Wall., 2.

#### [ARTICLE V.]

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any Criminal Case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

*United States v. Perez*, 9 Wh., 579; *Barron v. The City of Baltimore*, 7 Pet., 243; *Fox v. Ohio*, 5 How., 410; *West River Bridge Company v. Dix et al.*, 6 How., 507; *Mitchell v. Harmony*, 13 How., 115; *Moore, ex. v. The People of the State of Illinois*, 14 How., 13; *Murray's Lessee et al. v. Hoboken Land and Improvement Company*, 18 How., 272; *Dynes v. Hoover*, 20 How., 65; *Withers v. Buckley et al.*, 20 How., 84; *Gilman v. The City of Sheboygan*, 2 Black, 510; *Ex parte Milligan*, 4 Wall., 2; *Twitchell v. The Commonwealth*, 7 Wall., 321; *Hepburn v. Griswold*, 8 Wall., 603; *Miller v. United States*, 11 Wall., 268; *Legal Tender Cases*, 12 Wall., 457; *Pumpelly v. Green Bay Company*, 13 Wall., 166; *Osborn v. Nicholson*, 13 Wall., 654; *Ex parte Lange*, 18 Wall., 163; *Kohl et al. v. United States*, 91 U. S., 367.

#### [ARTICLE VI.]

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining Witnesses in his favor, and to have the Assistance of Counsel for his defence.

*United States v. Coledge*, 1 Wh., 415; *Ex parte Kearney*, 7 Wh., 38; *United States v. Mills*, 7 Pet., 142; *Baron v. City of Baltimore*, 7 Pet., 243; *Fox v. Ohio*, 5 How., 410; *Withers v. Buckley et al.*, 20 How., 84; *Ex parte Milligan*, 4 Wall., 2; *Twitchell v. The Commonwealth*, 7 Wall., 321; *Miller v. The United States*, 11 Wall., 268; *United States v. Cook*, 17 Wall., 168; *United States v. Cruikshank et al.*, 92 U. S., 542.

#### [ARTICLE VII.]

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

*United States v. La Vengeance*, 3 Dall., 297; *Bank of Columbia v. Oakley*, 4 Wh., 235; *Parsons v. Bedford et al.*, 3 Pet., 433; *Lessee of Livingston v. Moore et al.*, 7 Pet., 469; *Webster v. Reid*, 11 How., 437; *State of Pennsylvania v. The Wheeling, &c., Bridge Company et al.*, 13 How., 518; *The Justices v. Murray*, 9 Wall., 274; *Edwards v. Elliott et al.*, 21 Wall., 532.

#### [ARTICLE VIII.]

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

#### [ARTICLE IX.]

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

*Pervear v. Commonwealth*, 5 Wall., 475.  
*Lessee of Livingston v. Moore et al.*, 7 Pet., 469.

#### [ARTICLE X.]

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.

*Chisholm, ex. v. State of Georgia*, 2 Dall., 419; *Hollingsworth et al. v. The State of Virginia*, 3 Dall., 378; *Martin v. Hunter's Lessee*, 1 Wh., 304; *McCulloch v. State of Maryland*, 4 Wh., 316; *Anderson v. Dunn.*, 6 Wh., 204; *Cohens v. Virginia*, 6 Wh., 264; *Osborn v. United States Bank*, 9 Wh., 738; *Buchler v. Finley*, 2 Pet., 586; *Ableman v. Booth*, 21 How., 506; *The Collector v. Day*, 11 Wall., 113; *Clafin v. Houseman assignee*, 93 U. S., 130; *Inman Steamship Company v. Tinker*, 94 U. S., 238.

## [ARTICLE XI.]

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

*State of Georgia v. Brailsford et al.*, 2 Dall., 402; *Chisholm, ex. v. State of Georgia*, 2 Dall., 419; *Hollingsworth et al. v. Virginia*, 3 Dall., 378; *Cohen v. Virginia*, 6 Wh., 264; *Osborn v. United States Bank*, 9 Wh., 738; *United States v. The Planters' Bank*, 9 Wh., 904; *The Governor of Georgia v. Juan Madrazo*, 1 Pet., 110; *Cherokee Nation v. State of Georgia*, 5 Pet., 1; *Briscoe v. The Bank of the Commonwealth of Kentucky*, 11 Pet., 257; *Curran v. State of Arkansas et al.*, 15 How., 304.

The eleventh amendment to the Constitution of the United States was proposed to the legislatures of the several States by the Third Congress, on the 5th September, 1794; and was declared in a message from the President to Congress, dated the 8th of January, 1798, to have been ratified by the legislatures of three-fourths of the States.

## [ARTICLE XII.]

The Electors shall meet in their respective states, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate:—The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;—The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President. The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

The twelfth amendment to the Constitution of the United States was proposed to the legislatures of the several States by the Eighth Congress, on the 12th of December, 1803, in lieu of the original third paragraph of the first section of the second article; and was declared in a proclamation of the Secretary of State, dated the 25th of September, 1804 to have been ratified by the legislatures of three-fourths of the States.

## ARTICLE XIII.

**SECTION 1.** Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

**SECTION 2.** Congress shall have power to enforce this article by appropriate legislation.

*Dred Scott v. Sanford*, 19 How., 393; *White v. Hart*, 13 Wall, 646; *Osborn v. Nicholson*, 13 Wall., 654; *Slaughter-house Cases*, 16 Wall., 36.

The thirteenth amendment to the Constitution of the United States was proposed to the legislatures of the several States by the Thirty-eighth Congress, on the 1st of February, 1865, and was declared, in a proclamation of the Secretary of State, dated the 18th of December, 1865, to have been ratified by the legislatures of twenty-seven of the thirty-six States, viz: Illinois, Rhode Island, Michigan, Maryland, New York, West Virginia, Maine, Kansas, Massachusetts, Pennsylvania, Virginia, Ohio, Missouri, Nevada, Indiana, Louisiana, Minnesota, Wisconsin, Vermont, Tennessee, Arkansas, Connecticut, New Hampshire, South Carolina, Alabama, North Carolina, and Georgia.

## ARTICLE XIV.

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SECTION 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SECTION 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

SECTION 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

SECTION 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

*Crandall v. The State of Nevada*, 6 Wall., 35; *Paul v. Virginia*, 8 Wall., 168; *Ward v. Maryland*, 12 Wall., 418; *Slaughter-house Cases*, 16 Wall., 36; *Bradwell v. The State*, 16 Wall., 130; *Bartemeyer v. Iowa*, 18 Wall., 129; *Minor v. Happersett*, 21 Wall., 162; *Walker v. Sauvinet*, 92 U. S., 90; *Kennard v. Louisiana*, ex rel. Morgan, 92 U. S., 480; *United States v. Cruikshank*, 92 U. S., 542; *Munn v. Illinois*, 94 U. S., 113.

The fourteenth amendment to the Constitution of the United States was proposed to the legislatures of the several States by the Thirty-ninth Congress, on the 16th of June, 1866. On the 21st of July, 1868, Congress adopted and transmitted to the Department of State a concurrent resolution, declaring that "the legislatures of the States of Connecticut, Tennessee, New Jersey, Oregon, Vermont, New York, Ohio, Illinois, West Virginia, Kansas, Maine, Nevada, Missouri, Indiana, Minnesota, New Hampshire, Massachusetts, Nebraska, Iowa, Arkansas, Florida, North Carolina, Alabama, South Carolina, and Louisiana, being three-fourths and more of the several States of the Union, have ratified the fourteenth article of amendment to the Constitution of the United States, duly proposed by two-thirds of each House of the Thirty-ninth Congress: Therefore, *Resolved*, That said fourteenth article is hereby declared to be a part of the Constitution of the United States, and it shall be duly promulgated as such by the Secretary of State." The Secretary of State accordingly issued a proclamation, dated the 28th of July, 1868, declaring that the proposed fourteenth amendment had been ratified, in the manner hereafter mentioned, by the legislatures of thirty of the thirty-six States, viz: Connecticut, June 30, 1866; New Hampshire, July 7, 1866; Tennessee, July 19, 1866; New Jersey, September 11, 1866, (and the legislature of the same State passed a resolution in April, 1868, to withdraw its consent to it); Oregon, September 19, 1866; Vermont, November 9, 1866; Georgia rejected it November 13, 1866, and ratified it July 21, 1868; North Carolina rejected it December 4, 1866, and ratified it July 4, 1868; South Carolina rejected it December 20, 1866, and ratified it July 9, 1868; New York ratified it January 10, 1867; Ohio ratified it January 11, 1867, (and the legislature of the same State passed a resolution in January, 1868, to withdraw its consent to it); Illinois ratified it January 15, 1867; West Virginia, January 16, 1867; Kansas, January 18, 1867; Maine, January 19, 1867; Nevada, January 22, 1867; Missouri, January 26, 1867; Indiana, January 29, 1867; Minnesota, February 1, 1867; Rhode Island, February 7, 1867; Wisconsin, February 13, 1867; Pennsylvania, February 13, 1867; Michigan, February 15, 1867; Massachusetts, March 20, 1867; Nebraska, June 15, 1867; Iowa, April 3, 1868; Arkansas, April 6, 1868; Florida, June 9, 1868; Louisiana, July 9, 1868; and Alabama, July 13, 1868. Georgia again ratified the amendment February 2, 1870. Texas rejected it November 1, 1866, and ratified it February 18, 1870. Virginia rejected it January 19, 1867, and ratified October 8, 1869. The amendment was rejected by Kentucky January 10, 1867; by Delaware February 8, 1867; by Maryland March 23, 1867; and was not afterward ratified by either State.



## ARTICLE XV.

**SECTION 1.** The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

**SECTION 2.** The Congress shall have power to enforce this article by appropriate legislation.

United States *v.* Reese et al., 92 U. S., 214; United States *v.* Cruikshank et al., 92 U. S., 542.

The fifteenth amendment to the Constitution of the United States was proposed to the legislatures of the several States by the Fortieth Congress, on the 27th of February, 1869, and was declared, in a proclamation of the Secretary of State, dated March 30, 1870, to have been ratified by the legislatures of twenty-nine of the thirty-seven States. The dates of these ratifications (arranged in the order of their reception at the Department of State) were: from North Carolina, March 5, 1869; West Virginia, March 3, 1869; Massachusetts, March 9-12, 1869; Wisconsin, March 9, 1869; Maine, March 12, 1869; Louisiana, March 5, 1869; Michigan, March 8, 1869; South Carolina, March 16, 1869; Pennsylvania, March 26, 1869; Arkansas, March 30, 1869; Connecticut, May 19, 1869; Florida, June 15, 1869; Illinois, March 5, 1869; Indiana, May 13-14, 1869; New York, March 17-April 14, 1869, (and the legislature of the same State passed a resolution January 5, 1870, to withdraw its consent to it;) New Hampshire, July 7, 1869; Nevada, March 1, 1869; Vermont, October 21, 1869; Virginia, October 8, 1869; Missouri, January 10, 1870; Mississippi, January 15-17, 1870; Ohio, January 27, 1870; Iowa, February 3, 1870; Kansas, January 18-19, 1870; Minnesota, February 19, 1870; Rhode Island, January 18, 1870; Nebraska, February 17, 1870; Texas, February 18, 1870. The State of Georgia also ratified the amendment February 2, 1870.

THE  
DEBATES AND PROCEEDINGS  
IN THE  
CONGRESS OF THE UNITED STATES;  
WITH  
AN APPENDIX,  
CONTAINING  
IMPORTANT STATE PAPERS AND PUBLIC DOCUMENTS,  
AND ALL  
THE LAWS OF A PUBLIC NATURE;  
WITH A COPIOUS INDEX.

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FIFTEENTH CONGRESS—SECOND SESSION:  
COMPRISING THE PERIOD FROM NOVEMBER 16, 1818, TO MARCH 3, 1819,  
INCLUSIVE.

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COMPILED FROM AUTHENTIC MATERIALS.

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WASHINGTON:  
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1855.

Senate Proceedings and Debates.

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read a second time, and referred - - - - -	98	ordered to a third reading - - - - -	224
reported without amendment - - - - -	160	read the third time, and passed - - - - -	227
ordered to a third reading - - - - -	210	a bill making provision for the civilization of the, adjoining the frontier settlements, read - - - - -	246
read the third time, and passed - - - - -	212	read a second time - - - - -	251
Horsley, Outerbridge, of Delaware, attended -	22	ordered to a third reading - - - - -	270
Hunter, William, of Rhode Island, attended -	36	read the third time, and passed - - - - -	273
I.			
Illinois, a resolution from the House of Representatives declaring the admission of the State of, into the Union, twice read, and referred - - - - -	23		
reported without amendment - - - - -	26		
ordered to a third reading - - - - -	31		
read the third time, and passed - - - - -	32		
on motion of Mr. Sanford, the Judiciary Committee were instructed to inquire concerning the operation of the laws of the United States within - - - - -	67		



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So Mr. ALLISON was chosen Chaplain on the part of the House of Representatives.

THURSDAY, November 19.

Three other members, to wit: from Massachusetts, JEREMIAH NELSON; from Pennsylvania, WILLIAM MACLAY; and from Kentucky, RICHARD C. ANDERSON, jr., appeared and took their seats.

The SPEAKER laid before the House a letter from the Governor of the State of Pennsylvania, enclosing the credentials of SAMUEL MOORE, as a member of this House, in the room of Samuel D. Ingham, resigned; which was referred to the Committee of Elections.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting a report of the officers of the Army of the United States, their grade, where stationed, the number on duty, and those on furlough, with the period of furlough; made in obedience to the resolution of this House of the 20th of April last; which was ordered to lie on the table.

*Ordered*, That Mr. BASSETT be excused from serving on the Committee on the Public Buildings, and that Mr. BARBOUR, of Virginia, be appointed of that committee in his place.

On motion of Mr. IRVING, of New York, the Committee on Naval Affairs were instructed to inquire into the expediency of extending for the further term of five years the pensions heretofore granted to the widows and orphans of the officers, sailors, and marines, who were killed on board the armed ships of the United States during the late war.

On motion of Mr. JOHNSON, of Kentucky, a Committee was appointed to inquire into the expediency of allowing to the Territory of Michigan a Delegate in Congress; and Messrs. JOHNSON, of Kentucky, BEECHER, and PATTERSON, were appointed the said committee.

*Ordered*, That the Committee of the Whole to which is committed the fourth resolution submitted at the last session, (December 9, 1817,) by Mr. JOHNSON, of Kentucky, be discharged from the further consideration thereof, and that it be referred to the Committee on Military Affairs.

On motion of Mr. SAWYER, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of providing by law for staking the channel of Currituck sound, from the inlet to Powell's Point.

On motion of Mr. JOHNSON, of Kentucky, the Committee on Military Affairs were instructed to inquire into the expediency of establishing one or more additional military academies.

On motion of Mr. JOHNSON, of Kentucky, the Committee on the Post Office and Post Roads were instructed to inquire into the expediency of increasing the salary of the Assistant Postmaster General.

On motion of Mr. JONES, the Committee on Military Affairs were instructed to inquire into the expediency of providing by law for the payment for property lost or destroyed by the enemy;

and for horses lost for want of forage, during the late war between the United States and the Seminole nation of Indians.

STATE OF ILLINOIS.

Mr. MOLEAN, Representative from the new State of Illinois, being in attendance—

The SPEAKER stated to the House a difficulty which he felt in deciding upon the propriety of administering the oath to him, in consequence of Congress not having concluded the act of admission of the State into the Union. Under this difficulty, he submitted the question to the decision of the House.

Mr. POINDEXTER, of Mississippi, said he thought it incumbent on the House, before admitting the Representative to a seat, to examine the constitution just laid before it, to see, first, whether the requisitions of the act of last session were complied with; and, secondly, whether the form of government established was republican, which the United States were bound to guaranty. He illustrated the irregularity of a different procedure, by putting the case that the member was admitted to a seat, allowed to vote on important questions, and the constitution subsequently rejected.

Mr. HARRISON, of Ohio, wished a different course to be pursued, and one for which he adduced precedent, in the case of the Representative from one of the States lately admitted. The House had taken for granted the fact of a compliance with the law, and of the republican form of government established, and had admitted the member without question to his seat. In the present case, Mr. H. was unwilling to depart from the precedent, for mere form's sake.

Mr. PITKIN, of Connecticut, said that this was a question which, he believed, had never before been presented to the House. He thought, for himself, that, before admitting a Representative to a seat, the question, whether the people who elected him were a State, ought to be decided. To the decision of this question, several things were necessary: for instance, the law of last session required that the Territory in question should have had a certain population, to justify its forming a constitution and State government. This fact ought to be officially established, &c. and the resolution of admission passed, before a Representative took his seat.

The question having been put, it was decided apparently by a large majority that the SPEAKER should not at this time administer the oath of office.

*Ordered*, That the constitution of the State of Illinois be referred to a select committee; and Messrs. ANDERSON, of Kentucky, POINDEXTER, and HENDRICKS, were appointed the said committee.

FRIDAY, November 20.

The SPEAKER presented a memorial and petition of Matthew Lyon, formerly a member of the House of Representatives from the State of

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Vermont, detailing the circumstances attending his prosecution for sedition, in the year 1798, and complaining of the unconstitutionality of the act under which he was prosecuted, of illegality in the proceedings of the court, and of the fine which he was compelled to pay, and the imprisonment he suffered; and also setting forth the iniquity of the motives which prompted the said prosecution; and praying that the amount of the said fine, with the interest thereon, may be granted to him, together with such sum as Congress may think a just indemnity for his being dragged from his home, his family, friends, and business, and thrown into a loathsome dungeon, where he suffered every species of hardship and indignity, which the most persecuting spirit could devise, for four months.

Mr. WILLIAMS, of North Carolina, moved to refer the petition to the Judiciary Committee.

Mr. EDWARDS, of North Carolina, thought, that, as this petition embraced a claim, it would be proper to let it take the course of all other claims, by referring it to the Committee of Claims.

Mr. WILLIAMS said, though it was a claim, it was a claim arising from the operation of a law of the country supposed by the petitioner to be unconstitutional. Who could so well determine a question with regard to the constitutionality or unconstitutionality of a law, as the Judiciary Committee? Such cases had been usually referred to that committee; and even at the last session that committee had been directed to inquire into a fraud, said to have been committed in one of the courts of the United States.

On motion of Mr. SPENCER, of New York, the petition was read through, and was then referred to the Committee on the Judiciary.

On motion of Mr. WILLIAMS, of North Carolina, the Committee of Ways and Means were instructed to inquire into the expediency of abolishing the duty on salt imported into the United States.

On motion of Mr. RHEA, the Message of the President of the United States, of the 18th of January, 1816, recommending the confirmation of certain grants or reservations of lands, made by the friendly Creek Indians to Major General Andrew Jackson, Benjamin Hawkins, and others, was referred to the Committee on Private Land Claims.

On motion of Mr. POINDEXTER, the Committee on the Public Lands were instructed to inquire into the expediency of prohibiting the emigration and settlement of the Choctaw tribe of Indians, on the land of the United States, west of the river Mississippi, until they shall have acquired that right by treaty with the United States, founded on a cession of lands inhabited by said tribe of Indians, east of the river Mississippi.

#### STATE OF ILLINOIS.

Mr. ANDERSON, of Kentucky, from the select committee, to whom was referred the constitution of the State of Illinois, reported a resolution, declaring the admission of the State of Illinois

into the Union, on an equal footing with the original States.

The resolution was read a first and second time.—Mr. ANDERSON proposed that it should be engrossed for a third reading.

Mr. SPENCER, of New York, inquired whether it appeared, from any documents transmitted to Congress, that the State had the number of inhabitants required by the law of the last session, as a preliminary to its formation of a constitution.

Mr. ANDERSON said, that the committee had no information on that subject before them, beyond what was contained in the preamble to the constitution, which states, that the requisitions of the act of Congress had been complied with, and that the convention had therefore proceeded to the formation of a constitution. Mr. A. said, the committee had considered that evidence sufficient; and he had, in addition, himself seen, in the newspapers, evidence sufficient to satisfy him of the fact, that the population did amount to forty thousand souls, the number required.

The resolve was then ordered to be engrossed for a third reading.

The House adjourned to Monday.

#### MONDAY, November 23.

Several other members to wit: from New York, DANIEL CRUGER, PETER H. WENDOVER, and CALEB TOMPKINS; from South Carolina, JAMES ERVIN, ELIAS EARLE, and ELDRID SIMKINS; appeared and took their seats.

Mr. HUGH NELSON presented a memorial of William Lambert, accompanied with abstracts of astronomical calculations, to ascertain the longitude of the Capitol in this city, from the observatory of Greenwich in England, soliciting the adoption of measures authorizing additional observations to be made to test the accuracy of the result already obtained; which was referred to a select committee; and Messrs. HUGH NELSON, FOLGER, SEYBERT, CRAWFORD, and BATEMAN, were appointed the said committee.

Mr. JOHNSON, of Kentucky, presented a petition of William Jackson, solicitor on behalf of the surviving officers of the Revolutionary army of the United States, praying that an act may be passed directing the accounting officers of the Treasury to adjust the claim of each surviving officer of the said army, who, by the resolves of Congress, was entitled to half pay for life, calculating the amount of the principal of the arrearages, from the time of his reduction, and deducting therefrom five years full pay; and, the balance of arrearages being thus ascertained, to issue a certificate, bearing interest, to the officer for the amount of said balance; and the officer to be thenceforth entitled to receive half pay, in half yearly payments, for, and during the time of his natural life, which petition was referred to a select committee; and Messrs. JOHNSON, of Kentucky, SIMKINS, MERCER, HOPKINSON, and SPENCER, were appointed the said committee.

On motion of Mr. P. P. BARBOUR, of Virginia, he was excused from serving on the Committee of



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State of Illinois—Slavery.

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For building custom-houses and public warehouses at New Orleans and other ports - - - - -	100,000 00
Total of estimated demands -	\$24,515,219 76
Which being deducted from the amount estimated to be received into the Treas- ury, including the balance on the first day of January, 1819 - - -	26,232,408 59
Leaves a balance in the Treasury on the first day of January, 1820, of	\$1,717,188 83

In presenting this estimate of receipts for the year 1819, it is necessary to premise that the sum to be received from the customs is less than what, from the amount of the outstanding bonds, would under ordinary circumstances be received. The amount of the sales of public lands during the last year, and the sum due at this time by the purchasers, would justify a much higher estimate of the receipts from that important branch of revenue, if the most serious difficulty in making payments was not known to exist. The excessive issues of the banks during the suspension of specie payments, and the great exportation of the precious metals to the East Indies during the present year, have produced a pressure upon them which has rendered it necessary to contract their discounts for the purpose of withdrawing from circulation a large proportion of their notes. This operation, so oppressive to their debtors, but indispensably necessary to the existence of specie payments, must be continued until gold and silver shall form a just proportion of the circulating currency. In passing through this ordeal, punctuality in the discharge of debts, both to individuals and to the Government, will be considerably impaired, and well founded apprehensions are entertained that, until it is passed, payments in some of the land districts will be greatly diminished.

The extent to which the payments into the Treasury, during the year 1819, will be affected by the general pressure upon the community, which has been described, and which is the inevitable consequence of the overtrading of the banks and the exportation of specie to the East Indies, aggravated by the temporary failure of the ordinary supply of the precious metals from the Spanish American mines, cannot, at this time, be correctly appreciated. Should it exceed what has been contemplated in this report, the appropriations must be diminished, the revenue enlarged by new impositions, or temporary loans authorized to meet the deficiency. As the expenditure of the year 1820 will be greatly reduced by the irredeemable quality of the public debt, after the redemption of the remaining moiety of the Louisiana stock, which may be effected on the 21st day of October, 1819, a resort to temporary loans, or to the issue of Treasury notes, to the amount of the deficiency, should any occur, is believed to be preferable to the imposition of new taxes, which would not be required after that year.

All which is respectfully submitted.

WM. H. CRAWFORD.

#### STATE OF ILLINOIS—SLAVERY.

The engrossed resolution declaring the admission of the State of Illinois into the Union, on an equal footing with the original States, was read a third time; and on the question, Shall it pass?

Mr. TALLMADGE, of New York, assigned the reasons why, in his opinion, the resolution ought not to be adopted. It appeared to him, in the first place, he said, there ought to be before Congress some document, showing that the Territory had the population required by the law of the last session. The recitation of the fact in the preamble of the constitution he did not consider as the proper sort of evidence. It was not, however, upon this point that he meant to rest his opposition to the adoption of the resolution. The principle of slavery, if not adopted in the constitution, was at least not sufficiently prohibited. The ordinance for the government of the territory northwest of the Ohio, which was in the nature of a convention between the United States and the people of the States and Territories to be formed out of that territory, contained some provisions applicable to this subject. The sixth article of that ordinance provided that, in the cession of territory accepted by the United States from Virginia, and comprising the whole northwestern territory, there should be neither slavery nor involuntary servitude, otherwise than as a punishment for the commitment of crimes; with a proviso, that this provision should not be construed to prevent the reclamation of runaway slaves. If the constitution was found to comport with that provision, it ought to be received by Congress; if not, it ought to be rejected. The sixth article of the constitution of the new State of Illinois,\* in each of its three sections, Mr. T.

\*ART. 6. Neither slavery nor involuntary servitude shall hereafter be introduced into this State, otherwise than for the punishment of crimes, whereof the party shall have been duly convicted; nor shall any male person, arrived at the age of twenty-one years, nor female person arrived at the age of eighteen years, be held to serve any person as a servant, under any indenture hereafter made, unless such person shall enter into such indenture while in a state of perfect freedom, and on condition of a bona fide consideration received, or to be received, for that service. Nor shall any indenture of any negro or mulatto, hereafter made and executed out of this State, or, if made in this State, where the term of service exceeds one year, be of the least validity, except those given in cases of apprenticeship.

SEC. 2. No person bound to labor in any other State shall be hired to labor in this State, except within the tract reserved for the salt works, near Shawneetown; nor even at that place for a longer period than one year at any one time; nor shall it be allowed there after the year one thousand eight hundred and twenty-five; any violation of this article shall effect the emancipation of such person from his obligation to service.

SEC. 3. Each and every person who has been bound to service by contract or indenture, in virtue of the laws of the Illinois Territory, heretofore existing, and in conformity to the provisions of the same, without fraud or collusion, shall be held to a specific performance of their contracts or indentures; and such negroes and mulattoes as have been registered in conformity with the aforesaid laws, shall serve out the time appointed by said laws: *Provided, however, That the children hereafter born of such persons, negroes,*



contended, contravened this stipulation, either in the letter or the spirit. These sections he separately examined, as to their construction and bearing, and felt himself constrained to come to the conclusion that they embraced a complete recognition of existing slavery, if not provisions for its future introduction and toleration; particularly in the passage wherein they permit the hiring of slaves, the property of non-residents, for any number of years consecutively. If Congress would observe in good faith the terms of the convention, he said, they were bound, under this circumstance, to reject the constitution of Illinois, or at least this feature of it. The State of Virginia, he said, had ceded the territory out of which this State was formed, on certain conditions, to the United States; one of which was that to which he had just adverted, and it was a monument to the fame of Virginia. It had often been cast as a reproach on this nation, that we, who boast our freedom, and pride ourselves on our independence, yet hold our fellow-beings in service. Americans had been represented, indeed, with one hand exhibiting the declaration of independence, and with the other brandishing the lash of despotism. When this stigma was attempted to be fixed on our country, it was a consolation to him, he said, that we have it in our power to cast it back again on the country from which we are severed—hers was the original sin, which we found in existence on our emancipation, and which it had been impossible to eradicate—we could do no more than control and regulate the evil. So far from wishing to invade the rights of the slaveholding States, or to assail their prerogatives, he believed they were equally sensible with him of the evils of slavery, and did what they could to control and regulate them. But, Mr. T. said, if Congress should voluntarily recognise this feature in a constitution submitted for their decision, and in violation, too, of a compact forbidding it, they would take upon themselves the unjust imputation he had alluded to. Mr. T. referred to the constitution of the State of Indiana, a State already admitted from the same territory, to show how carefully and scrupulously it had guarded against slavery in any shape, and in the strongest terms reprobated it; and lest at some future day amendments to the constitution should admit its introduction, a clause of that constitution forbade any amendment of that sort to be made. These sentiments of the State of Indiana, Mr. T. said, he reciprocated. Our interest and our honor, said he, calls on us rigidly to insist on the observance of good faith under the article of the ordinance I have referred to, so far as that no involuntary service be permitted to be recognised in the constitution of any State to be formed out of that territory.

or mulattoes, shall become free, the males at the age of twenty-one years, the females at the age of eighteen years. Each and every child born of indentured parents shall be entered with the clerk of the county in which they reside, by their owners, within six months after the birth of said child.—*Constitution of Illinois.*

Mr. POINDEXTER, of Mississippi, said he fully concurred with the gentleman from New York, in his solicitude to expel from our country, whenever practicable, anything like slavery. It is not with us, said he, a matter of choice whether we will have slaves among us or not: we found them here, and we are obliged to maintain and employ them. It would be a blessing, could we get rid of them; but the wisest and best men among us have not been able to devise a plan for doing it. The only question at present is whether the State of Illinois has virtually complied with her contract, and followed the example of the two other States already erected from the same territory. To illustrate that fact, Mr. P. referred to the constitution of Ohio, the erection of which State, from the Northwestern Territory, the gentleman appeared to have overlooked; and showed that the article on the subject of slaves was almost literally copied from the constitution of Ohio into that of Illinois. The third section of the article in question, in the latter, was the only variation, and the necessity of that additional provision would be obvious to any gentleman who would examine and reflect upon the subject. By an antecedent law of the Territorial government, all persons, slaves or under indenture, in the Territory, were required to be registered, as the only way in which they could be discriminated from fugitives, &c. The constitution directs that their children also shall be registered, that they may be secure of enjoying their freedom, when by the constitution they become entitled. From their color, (being *prima facie* slaves in other States,) was it not more secure to the freedom of the people of color, that their births, parentage, &c., should be recorded in the new State, than otherwise? So far from constituting an objection to it, Mr. P. said, he considered this a valuable part of the constitution of Illinois. As to children, born of slaves, not being free until eighteen or twenty-one years of age, Mr. P. said that would be no great hardship, seeing it was as soon as white persons were free from their parents, or from their indentures, if apprenticed. With respect to constitutional provisions on this subject, Mr. P. said, after all, it would be found impracticable, after admitting the independence of a State, to prevent it from framing or shaping its constitution as it thought proper. As to a constitution like that of Indiana, prohibiting the introduction of an amendment to it, of whatever nature, if the people were to form a convention to-morrow, that provision would be of no force: the whole power would be with the people, whom, in their sovereign capacity, no provision of that nature can control. Nor could Congress prevent them. Various attempts had already been made in Ohio to alter that feature. In the nature of free governments, no law could be irrevocable; though on this head, he observed, he hoped that neither Ohio, Indiana, nor Illinois, would ever permit the introduction of slavery within their limits. He hoped, as far as we could, we should expel slavery from the country. At the same time, he thought that Illinois, so far as she had gone, had done

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better than the States which had preceded her in the same quarter, because she had provided for the security of the freedom of negroes, mulattoes, &c., and to prevent them from being kidnapped, by causing them to be registered.

Mr. ANDERSON, of Kentucky, repeated what he had said on Friday last, respecting the population of Illinois, and his own conviction that it was of the required amount. If on this subject Congress had been very scrupulous, Mr. A. said, they would have directed a census of the population to be taken by persons appointed by the United States for that purpose; but they had always heretofore in like cases submitted to Territorial counts and Territorial results, and he did not see why they should not do the same in the present case. All that was necessary was that they should be reasonably satisfied of their accuracy. With respect to the other objection of the gentleman, he thought he could satisfy him that his position was manifestly incorrect. It would be seen, on reading the articles of cession by Virginia, that no condition, such as the gentleman supposed, was annexed to it, respecting slavery. The conditions she required were of a different character, and this provision respecting slavery had been prescribed by Congress, among other articles framed for the government of the Territory thus ceded. Virginia had no concern in it, except so far as she was represented on the floor of Congress, when the ordinance was passed. Still less were the people of the Northwestern Territory a party to the compact, as the gentleman supposed it, not being represented at all, nor consulted on the occasion. Congress then are not in this respect bound by any pledge, nor by anything but a sense of expediency, co operating with the like sense of the people of Illinois. The conditions reserved by Virginia on making the cession were that a certain number of States should be erected from the Territory, and all existing rights of the people preserved; and, Mr. A. said, there were slaves in the Territory at that day. So far from Virginia requiring the abolition of slavery, doubts had arisen whether, under the stipulations she made on ceding the Territory to the United States, Congress should pass the ordinance which they subsequently enacted. Serious doubts had arisen, after stipulating to make three States, whether Congress had a right to prescribe any condition respecting slavery, &c.; not, Mr. A. said, that he would destroy the ordinance, but he meant to state only how far its scope extended. There was nothing unconstitutional, in any view, in Congress accepting what the people of Illinois have done, if they thought proper; since the consent of the two contracting parties (supposing the ordinance to be a compact) would thus be given. With respect to the nature of the provisions referred to in the constitution, the gentleman who preceded him had clearly shown that they had been misunderstood by the gentleman from New York.

Mr. TALLMADGE replied.—In referring to the ordinance, as binding Congress not to permit slavery, in any of the States formed from the North-

western Territory, he conceived Congress to be bound by a tie not to be broken: but, if in this he was wrong, and Congress are bound by nothing but their sense of expediency, that tie became ten thousand times more strong. Are we, said he, to be drawn into a discussion of slavery, its merits and demerits, on abstract principles? He would not enter into such a discussion; but must persist in stating it as his opinion, that the interest, honor, and faith of the nation, required it scrupulously to guard against slavery's passing into a territory where they have power to prevent its entrance. Mr. T. again enumerated the provisions in the constitution of Illinois, to which he objected, and made further remarks on them. He considered it such, that to accept it, would be to violate a pledge solemnly given, and, if not a stipulation, yet, so simultaneously given, as to amount to a compact with Virginia. With respect to the power of a State to change its constitution, he was not prepared to say that a State was, in that respect, under no restraint. Would gentlemen admit a State into the Union to-day under a republican form of government, and permit it to call a convention to-morrow, and change its form of government to a monarchy? That State would cease, by the very act, to be a component part of the Union, and the same result would follow, he presumed, if a State were to violate the condition on which it was admitted into this Union, by admitting the introduction of slavery.

Mr. LIVERMORE requested the yeas and nays on the decision of this question.

Mr. HARRISON said, that, as a Representative of Ohio, he protested against the doctrine of the gentleman from New York. He could assure the gentleman that the people of that State were fully aware of their privileges, and would never come to this House, or to the State of New York, for permission so to alter their constitution as to admit the introduction of slavery, the object of the gentleman's abhorrence, as, said Mr. H., it is of mine. They had entered into no compact which had shorn the people of their sovereign authority. Mr. H. proceeded to make some remarks respecting the operation of the ordinance, cessions, &c. Though there were slaves in that country when ceded, there had been none in that part of it from which the State of Ohio had been formed, so that no provision had been necessary respecting them in the constitution of that State. In Indiana, the question relating to this description of property had been reserved for the decision of the courts of justice, &c., and he sincerely wished that Illinois had either emancipated its slaves, or followed the example of Indiana. In regard to the supposed compact, however, and its efficacy, Mr. H. said, he had always considered it a dead letter. He could not put his hand on the page, or on the letter, but he believed it would be found that, in one of the pages of the *Federalist*, the authority of which he presumed, at least, the gentleman from New York would respect, Alexander Hamilton had expressly declared the same opinion. He could not believe, he said,



that Congress would refuse to accept the State of Illinois on the ground of that compact: for his part, he wished to see that State, and all that Territory, disenthralled from the effect of articles to which they never gave their assent, and to which they were not properly subject. This much he wished, however he was opposed to slavery, and should lament its introduction into any part of that Territory.

After a few further remarks, from Mr. TALLMADGE, Mr. ANDERSON, and Mr. STORRS, the question on the passage of the resolution was decided in the affirmative—yeas 117, nays 34, as follows:

YEAS—Messrs. Anderson of Pennsylvania, Anderson of Kentucky, Austin, Baldwin, Barbour of Virginia, Bateman, Bayley, Beecher, Bellinger, Bloomfield, Blount, Boden, Bryan, Burwell, Butler of New York, Butler of Louisiana, Campbell, Claiborne, Cobb, Colston, Cook, Crawford, Cruger, Culbreth, Cushman, Desha, Drake, Edwards, Ervin of South Carolina, Floyd, Garnett, Hall of North Carolina, Harrison, Hendricks, Herbert, Hogg, Holmes, Hopkinson, Hostetter, Hubbard, Irving of New York, Johnson of Kentucky, Jones, Kinscy, Kirtland, Lawyer, Lewis, Lincoln, Linn, Little, McLane of Delaware, McCoy, Marchand, Mason of Massachusetts, Mercer, Middleton, Robert Moore, Samuel Moore, Moseley, Mumford, H. Nelson, T. M. Nelson, New, Newton, Ogden, Ogle, Owen, Palmer, Patterson, Pegram, Peter, Pindall, Pitkin, Pleasants, Poindexter, Porter, Quarles, Rhea, Rice, Robertson, Rogers, Ruggles, Sampson, Sawyer, Schuyler, Scudder, Settle, Shaw, Sherwood, Silsbee, Simkins, Slocumb, S. Smith, Ballard Smith, Alexander Smith, J. S. Smith, Speed, Spencer, Stewart of North Carolina, Storrs, Stuart of Maryland, Tarr, Terrell, Terry, Tompkins, Trimble, Tucker of South Carolina, Upham, Walker of North Carolina, Walker of Kentucky, Wallace, Westerlo, Whiteside, Wilkin, Williams of Connecticut, Williams of New York, Williams of North Carolina—117.

NAYS—Messrs. Adams, Bennett, Boss, Clagett, Crafts, Darlington, Ellicott, Folger, Gage, Gilbert, Hale, Hasbrouck, Hunter, Huntington, Livermore, Wm. Maclay, Wm. P. Maclay, Merrill, Morton, Murray, Jeremiah Nelson, Orr, Reed, Rich, Richards, Savage, Seybert, Southard, Tallmadge, Taylor, Wendover, Whitman, Wilson of Massachusetts, and Wilson of Pennsylvania—34.

So the resolution was passed, and sent to the Senate for concurrence.

#### TUESDAY, November 24.

Another member, to wit: from Massachusetts, SAMUEL C. ALLEN, appeared, and took his seat.

Mr. H. NELSON, from the Committee on the Judiciary, reported a bill concerning the western district court of Pennsylvania; which was twice read, and committed.

Mr. N., from the same committee, to whom was referred the memorial of Matthew Lyon, praying a reimbursement of the expenses incurred by the prosecution under the act of Congress of July, 1798, commonly called the sedition law, he then being a Representative in Congress from the State of Vermont, made a report thereon,

that the prayer of the petitioner ought not to be granted.

Mr. N. said, he felt himself constrained to state to the House that, on this question, he had been in a minority in the committee, and wished the subject to be fully laid before the House. He therefore moved that the report be referred for consideration to a Committee of the whole House.

The motion was agreed to.

Mr. HOPKINSON, under the instruction of the Judiciary Committee, reported a bill to establish a uniform system of Bankruptcy throughout the United States.

In introducing this bill, Mr. H. remarked, that the bill was in form the same which he had the honor to introduce to the consideration of Congress at their last session. It was not his intention, he said, to fatigue the House by a long argument at present; but he had thought it his duty to bring the subject once more before Congress, and have a vote taken on it, because the necessities of the people demanded it, and in the hope that, during the recess of Congress, the opinions of some gentlemen might have changed, from reflection, or from information derived from others, of the pressing occasion for such a law. Mr. H. hoped that gentlemen would not turn from this question with alarm, but that there would be a fair expression of the opinion of Congress on the subject.

The bill was read, and committed.

Mr. HARRISON, from the committee to whom the subject was referred, reported a bill to increase the number of clerks in the Department of War; which was twice read, and committed.

Mr. JOHNSON, of Kentucky, from the select committee, to whom the subject was referred, reported a bill to authorize the election of a Delegate from the Michigan Territory to Congress, and extending the right of suffrage to the people of said Territory; which was twice read, and committed.

Mr. TAYLOR introduced a resolution authorizing the franking of the documents accompanying the President's late Message; which was read three times, and passed.

On motion of Mr. POINDEXTER, the Committee on Commerce and Manufactures were instructed to inquire into the expediency of giving effect, by law, to an act passed by the General Assembly of the State of Mississippi, entitled "An act making appropriations for the use of the Natchez hospital."

Mr. CAMPBELL was appointed of the Committee on Foreign Affairs, vice Mr. Forsyth resigned.

The SPEAKER laid before the House a letter from Richard Bland Lee, late Commissioner of Claims, transmitting a letter from Jacob Dox, soliciting compensation for his services as agent on behalf of the United States, in the taking of evidence in certain claims of great magnitude, on the Niagara frontier of the State of New York; which letters were referred to the Committee of Claims.



DOCUMENTS,  
LEGISLATIVE AND EXECUTIVE,  
OF THE  
**Congress of the United States,**

IN RELATION TO

THE PUBLIC LANDS,

FROM THE FIRST SESSION OF THE FIRST CONGRESS TO THE FIRST SESSION OF THE  
TWENTY-THIRD CONGRESS:

MARCH 4, 1789, TO JUNE 15, 1834.

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SELECTED AND EDITED,  
UNDER THE AUTHORITY OF THE SENATE OF THE UNITED STATES,  
BY WALTER LOWRIE,  
SECRETARY OF THE SENATE.

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**VOLUME III.**

FROM DECEMBER 22, 1815, TO MAY 26, 1824.

WASHINGTON:  
PRINTED BY DUFF GREEN.

1834.

AMERICAN STATE PAPERS.

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DOCUMENTS

OF THE

CONGRESS OF THE UNITED STATES,

IN RELATION TO

THE PUBLIC LANDS,

FROM THE

FIRST SESSION OF THE TWENTY-FOURTH TO THE SECOND SESSION OF THE TWENTY-FOURTH CONGRESS,

COMMENCING DECEMBER 8, 1835, AND ENDING FEBRUARY 28, 1837.

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SELECTED AND EDITED, UNDER THE AUTHORITY OF CONGRESS,

BY

ASBURY DICKINS, SECRETARY OF THE SENATE,

AND

JOHN W. FORNEY, CLERK OF THE HOUSE OF REPRESENTATIVES.

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VOLUME VIII.

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WASHINGTON:  
PUBLISHED BY GALES & SEATON.  
1861.

24TH CONGRESS.]

No. 1529.

[1ST SESSION.]

## ON A CLAIM TO LAND IN LOUISIANA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MAY 31, 1836.

Mr. DUNLAP, from the Committee on the Public Lands, to whom was referred the petition of Thomas M. Burland, and other citizens of the parish of Carroll, in the State of Louisiana, reported :

That, in consequence of directions issued by the proper authority, considerable portions of the public lands lying on the Mississippi, and other rivers, in the State of Louisiana, were not surveyed in the usual manner, by sections, half-sections, quarters, &c., but in conformity to the method pursued by the French and Spanish governments, while they possessed that country; that is, having a front of from two to five acres on the river or water-course, running back forty acres by parallel lines. It appears that township No. 17 north, range No. 13 east, or that part of it lying on the river, was surveyed in this manner, consequently there was no 16th section in that township that could be preserved for the use of schools; but the Secretary of the Treasury very properly directed the register of the land office for the district north of Red river, to select a number of fractional sections or lots, equal to six hundred and forty acres, to be reserved for the use of schools, which was done by the late John Hughes, then register at Monroe, in said district. It appears that fractional quarter-section No. 1, of section No. 28, was a portion of the land selected; but from some oversight, or other reason unknown to the committee, no mark or other evidence of such selection was placed on the maps in the office, whereby a succeeding register could know which lots or fractional sections had been selected, though the necessary information, it appears, had been forwarded to the Commissioner of the General Land Office. About 1829, Mr. Hughes resigned his office, and another register was appointed.

On the 11th of November, 1830, the petitioner went to the land office, and purchased the aforesaid fractional quarter-section, neither he nor the register nor receiver knowing it had been reserved from sale, or selected as school land. He took possession of the land in good faith, cleared a portion of it, and it is stated, it now forms a part of his plantation. This possession was quietly continued until about the month of November, 1833, when the petitioner was informed by the Commissioner of the General Land Office, that the entry made in 1830 was illegal, and would not be recognised, as the lands had been set apart for schools in 1826. The object of his petition now, is to confirm the purchase he made, and authorize the selection of an equal quantity of land elsewhere, for the use of schools.

As it is apparent to the committee that the petitioner and register both acted in good faith, but in ignorance of a fact that was very material, they think that upon principles of equity, the prayer of the petitioner ought to be granted, and they report a bill for the purpose.

24TH CONGRESS.]

No. 1530.

[1ST SESSION.]

## IN FAVOR OF GRANTING TO THE INHABITANTS OF A TOWNSHIP IN ILLINOIS OTHER LANDS, IN LIEU OF THEIR SIXTEENTH SECTION—COVERED BY PRE-EMPTION CLAIMS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JUNE 1, 1836.

Mr. CASEY, from the Committee on the Public Lands, to whom was referred the petition of sundry citizens of Madison county, State of Illinois, reported :

That the subject, which is presented in the petition, is of importance and of great interest to the inhabitants of the township mentioned in said petition. Your committee have given to it that consideration to which it is entitled.

It is known to all, that there exists a solemn compact, and law between the United States, and all the new States which are formed on the public domain, that one section of land, being the sixteenth, in each township of six miles square, is appropriated to the inhabitants of said township for the use of schools.

The petitioners, in the case before the committee, state that they are inhabitants of one of these townships, to wit: township three north, range nine west, of the third principal meridian, in the county of Madison and State of Illinois; and that the sixteenth section of land in said township is "good land," on which there are three good farms, and is now worth three thousand dollars.

Having considered the statement made by Mr. Reynolds, which is made a part of this report, together with the statement of the petitioners, your committee are fully satisfied that the said sixteenth section was of the first quality of land in the township, and is very valuable.

The petition further states, that the said sixteenth section was appropriated, under the pre-emption laws, to the use of private citizens, and a section in lieu of it selected, in an elm-swamp, on which there is, perhaps, not forty acres of dry land, and therefore of little or no value.

An act of Congress, which passed on the 26th April, 1816, authorized and permitted "every person" and their legal representatives, who, before the 5th of February, 1813, settled on and improved any tract of land reserved for the use of schools or seminaries of learning, and who, if the same lands had not been reserved, would have had the right of the pre-emption, shall be, and they are hereby authorized and permitted to enter the same with the register and receiver of public moneys at the land office at Kaskaskia.



Under the proceeding of the above-recited act of Congress, the said sixteenth section of land was purchased at the land office at Kaskaskia, and appropriated to the use of private citizens. The section and township at the time above mentioned were situated in the Kaskaskia land district.

Now, by an act of Congress, the said township is included in the district of lands sold at Edwardsville, in said State.

It is provided by the second section of the said act, "that the registers and receivers of public money shall have power, and they are hereby authorized to select any other vacant and unappropriated lands, within the tract set apart to satisfy confirmed claims as aforesaid, in lieu of such of the lands formerly reserved for a seminary of learning, and for the support of schools, as have been appropriated in satisfaction of ancient grants, or confirmed improvement claims, or as shall be entered in right of pre-emption, according to the provisions of the preceding section of this act; *provided*, that the lands thus to be selected shall be taken as near adjacent to those in lieu of which they are selected as an equal quantity of land of like quality can be obtained, and shall be reserved and appropriated for the same purpose."

Your committee are clearly convinced, that the inhabitants of said township had no agency, or gave no consent, to the removal and exchange of the school section of land in said township. The same was effected by the operation of the said act of Congress allowing the pre-emption to the settlers on the said sixteenth section.

The act of the register and receiver of public moneys at Kaskaskia in making the selection of the section, in lieu of the sixteenth section, was not the act of the inhabitants, but the act of the government, and there exist no reasons that the citizens of said township should be injured in their rights for the act of the government which was not in their control or power.

Your committee can arrive at no other conclusion than that the inhabitants of said township are entitled to relief, and therefore report a bill.

24TH CONGRESS.]

No. 1531.

[1ST SESSION.

## IN FAVOR OF CORRECTING AN ERROR IN THE ENTRY OF LAND IN ILLINOIS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JUNE 1, 1836.

Mr. CASEY, from the Committee on the Public Lands, to whom was referred the claim of John Wigle for relief in the purchase of a lot of land, reported:

That the committee have examined the evidence in this case, and have no doubt that John Wigle made a mistake in entering and purchasing of the United States, in the Kaskaskia land district, in the State of Illinois, the west half of the northeast quarter of section number thirty-one, in township twelve south, range two west, in said district.

The county surveyor of Union county, State of Illinois, in which county the land is situated, states on oath, "that one half of which (meaning the land) is entirely covered with water, the same lying in a lake, or pond; it is not suitable for cultivation; nor is it practicable to cultivate any part of it."

It was the intention of Mr. Wigle to purchase the west half of the southeast quarter of section number thirty-one, in the same township.

Your committee deem it an act of justice to John Wigle, and in pursuance of the policy of the government on such occasions, to afford him relief, and to permit him to enter a like quantity of land in said district, which is subject to private entry. Therefore, your committee report a bill.

24TH CONGRESS.]

No. 1532.

[1ST SESSION.

## ON A CLAIM FOR THE RE-ISSUE OF A LOST BOUNTY LAND-WARRANT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JUNE 1, 1836.

Mr. CRANE, from the Committee on Revolutionary Claims, to whom the petition of Levi Chadwick was referred, reported:

It appears that on the 4th day of December, 1818, warrant No. 716, for one hundred acres, issued from the bounty land office, in the name of Levi Chadwick, alias Shadwick, a soldier in the New Jersey continental line. No location has been made on this warrant, nor has it been surrendered at the General Land Office, for the purpose of obtaining either a patent or scrip, and from the testimony it appears to have been lost. The petitioner, who is shown to be the person to whom the original warrant issued, prays that a duplicate warrant may be issued to him; and the committee report a bill accordingly.

United States shall be subject to entry, under the provisions of this act, in sub-divisions, not less than a quarter quarter-section.

SEC. 9. *And be it further enacted*, That all lands of the United States, whether now subject to entry or not, shall hereafter be entered only in the manner prescribed by this act: *Provided, however*, That no right accrued and vested under any existing law or treaty, shall in any manner be affected by the provisions of this act.

SEC. 10. *And be it further enacted*, That there shall be granted to each of the States of Missouri, Louisiana, and Mississippi, a quantity of land equal to the quantity heretofore granted by Congress to the State of Ohio, for the purpose of internal improvement; and that a like quantity shall be granted to each of the Territories of the United States, upon their admission as States of the Union; and that there shall be also granted to each of the States of Indiana, Illinois, and Alabama, a quantity of land, which, together with the quantity already granted to each of said States for the purposes of internal improvement, will make the grant to each of said States for the purpose of internal improvement, equal to the quantity already granted to the State of Ohio for the purpose of internal improvement; which said lands shall be selected within the limits of said States respectively, and in such manner as the legislatures thereof shall direct, and be located in parcels, conformably to sectional divisions and sub-divisions of not less than three hundred and twenty acres, or one-half section, in any one location, on any public land subject to entry or which may hereafter become subject to entry; which said locations may be made at any time within five years after the passage of this act, and as regards any Territories not already admitted as States of the Union, within five years after said Territories shall have been admitted as States of the Union; and all roads, bridges, or canals, which may be constructed by any of said States respectively, from the net proceeds of the sales of said lands, shall be free for the transportation of the United States mail and munitions of war, and for the passage of the troops of the United States, without the payment of any toll whatever.

SEC. 11. *And be it further enacted*, That all public lands that now are, or hereafter shall have been, subject to entry five years, and less than ten years, and still remaining unsold, shall be subject to entry at the price of one dollar per acre; and all lands in like manner remaining unsold after they now are, or hereafter shall have been subject to entry ten years, and less than fifteen years, shall be liable to entry at ninety cents per acre; and all lands in like manner remaining unsold after they now are, or hereafter shall have been, subject to entry fifteen years, and less than twenty years, shall be liable to entry at eighty cents per acre; and all lands in like manner remaining unsold after they now are, or hereafter shall have been, subject to entry twenty years, and less than twenty-five years, shall be liable to entry at the price of seventy cents per acre; and all lands in like manner remaining unsold after they now are, or hereafter shall have been, subject to entry twenty-five years, and less than thirty years, shall be liable to entry at the price of sixty cents per acre; and all lands in like manner remaining unsold after they now are, or hereafter shall have been, subject to entry thirty years, and less than thirty-five years, shall be liable to entry at the price of fifty cents per acre; and all lands in like manner remaining unsold that now are, or hereafter shall have been, subject to entry thirty-five years, and upward, shall be ceded to the States respectively in which said lands are situate, upon payment into the Treasury of the United States of the prices paid for surveying said lands.

SEC. 12. *And be it further enacted*, That all laws and parts of laws, repugnant to the provisions of this act, be and the same are hereby repealed.

24TH CONGRESS.]

No. 1542.

[1ST SESSION.]

IN FAVOR OF GRANTING TO THE INHABITANTS OF A TOWNSHIP IN ILLINOIS OTHER  
LANDS IN LIEU OF THEIR SIXTEENTH SECTION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JUNE 28, 1836.

Mr. CASEY, from the Committee on Public Lands, to whom were referred the petitions of certain citizens of Madison county, State of Illinois, reported:

That the sixteenth section in each township of six miles square, in all the new States and in the State of Illinois, which is one of those States, is granted to the inhabitants of the townships respectively, for the use of schools. That section 16, in township 4 north, range 8 west of the third principal meridian, in the said county of Madison, and State of Illinois, was granted and secured to the inhabitants of said township for the use of schools. That while the citizens were in the peaceable possession and enjoyment of said right, the Congress of the United States, by an act passed on the 27th of February, 1815, granted the right of pre-emption to all the settlers on the said sixteenth section in a certain district in the then Territory of Illinois, of which the township above mentioned forms a part.

The settlers on section 16, in said township, availed themselves of the benefit of said law, and under the pre-emption act, appropriated to their own use and benefit the said sixteenth section of land. By the provision of an act of Congress, the Register of the Land Office was authorized and required to select other lands in said township, as near as practicable to the lands so appropriated to the settlers under the pre-emption law, in lieu of said sixteenth section; and the same so selected to be selected should be reserved for the use of schools for said township. In the execution of this act of Congress, the register selected section No. 1, in said township, for the inhabitants of the township, for the use of schools. The petitioners represent to your committee, which statement is sustained by positive proof adduced to them, that section 16, in said township, which was originally reserved for the use of schools, is worth ten dollars per acre, and section 1, which is now the school section for said township, is not good land, and is not worth more than one dollar per acre. The petitioners state further, that they had no agency, or gave no consent whatever, in the act of the government depriving them of their right to section 16, in said township, which was originally granted to them.

As the government, by the act of Congress, and by the acts of their agents, has deprived the inhabitants of said township of their right in said section 16, your committee deem it an act of justice to grant them relief, and therefore report a bill for that purpose.

BY AUTHORITY OF CONGRESS.

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**Public Statutes at Large**  
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VOL. V.  
BOSTON:  
LITTLE, BROWN AND COMPANY.  
1856.



## STATUTE III.

Feb. 15, 1843.

[Obsolete.]

Franking privilege granted.  
Act of March 3, 1845, ch. 43, sec. 6.

CHAP. XXXI. — *An Act to authorize the chief clerk in the office of the Secretary of State to frank public and official documents sent from that office.*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the right and privilege of franking all public and official documents, that may be sent from the office of the Secretary of State, be, and hereby is, granted to the chief clerk in that office.

APPROVED, February 15, 1843.

## STATUTE III.

Feb. 15, 1843.

Circuit court to be held at Portland on 1st October.

Proviso.

District court to be held at Portland on first Tuesday of February.  
And at Bangor on fourth Tuesday of June.

CHAP. XXXII. — *An Act to change the place of holding the circuit and district courts in the district of Maine. (a)*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the term of the circuit court of the United States, for the district of Maine, heretofore held at Wiscasset, in and for said district, on the first day of October; shall hereafter be held at Portland, in said district, on the first day of October, and that all writs, pleas, and recognizances and indictments, and all other proceedings, both civil and criminal, pending in said court, shall be returnable to and have day and be heard, tried, and proceeded in at Portland, in the same manner as they might have been done at Wiscasset, had the place of holding said court not been changed: *Provided, however,* if the first day of October happen on Sunday, then the court shall be held on the second day of said month.

SEC. 2. *And be it further enacted,* That the term of the district court of the United States for the district of Maine, heretofore held at Wiscasset, on the fourth Tuesday of February, shall hereafter be held at Portland on the first Tuesday of February, and that the term of said court heretofore held at Portland on the first Tuesday of June, shall hereafter be held at Bangor in said district, on the fourth Tuesday of June.

APPROVED, February 15, 1843.

## STATUTE III.

Feb. 15, 1843.

Authority to provide for the sale of school lands, &c.

Proviso.

Apportionment of the proceeds.

CHAP. XXXIII. — *An Act to authorize the Legislatures of the States of Illinois, Arkansas, Louisiana, and Tennessee, to sell the lands heretofore appropriated for the use of schools in those States.*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Legislatures of Illinois, Arkansas, Louisiana, and Tennessee, be, and they are hereby, authorized to provide by law for the sale and conveyance in fee simple, of all or any part of the lands heretofore reserved and appropriated by Congress for the use of schools within said States, and to invest the money arising from the sales thereof in some productive fund, the proceeds of which shall be forever applied, under the direction of said Legislatures, to the use and support of schools within the several townships and districts of country for which they were originally reserved and set apart, and for no other use or purpose whatever: *Provided,* Said land, or any part thereof, shall in no wise be sold without the consent of the inhabitants of such township or district, to be obtained in such manner as the Legislatures of said States shall by law direct; and in the apportionment of the proceeds of said fund, each township and district shall be entitled to such part thereof, and no more, as shall have accrued from the sum or sums of money arising from the sale of the school lands belonging to such township or district.

(a) District Court of Maine, vol. 3, 413.

Notes of the acts relating to the circuit court of the district of Maine, vol. 3, 773.

SEC. 2. *And be it further enacted*, That the Legislatures of said States be, and they are hereby, authorized to make such laws and needful regulations as may be deemed expedient to secure and protect from injury or waste, the sections reserved by the laws of Congress, for the use of schools, to each township, and to provide by law, if not deemed expedient to sell, for leasing the same for any term not exceeding four years, in such manner as to render them productive, and most conducive to the object for which they were designed.

Authority to make laws for protection of said lands, &c.

SEC. 3. *And be it further enacted*, That if the proceeds accruing to any township or district from said fund, shall be insufficient for the support of schools therein, it shall be lawful for said Legislatures to invest the same in the most secure and productive manner, until the whole proceeds of the fund belonging to such township or district shall be adequate to the permanent maintenance and support of schools within the same: *Provided*, That the Legislatures aforesaid shall, in no case, invest the proceeds of the sale of the lands in any township in manner aforesaid, without the consent of the inhabitants of said township or district, to be obtained as aforesaid.

In case of insufficiency of said proceeds to support schools, authority to invest them until adequate.

Proviso.

SEC. 4. *And be it further enacted*, That any sales of such lands, reserved as aforesaid, as have been made in pursuance of any of the laws enacted by the Legislatures of said States, and not inconsistent with the principles of this act, are hereby ratified and confirmed so far as the assent of the United States to the same may be necessary to the confirmation thereof.

Such sales as have been made not inconsistent with the principles of this act, confirmed.

APPROVED, February 15, 1843.

CHAP. XXXIV.—*An Act for the relief of the owners of the fund received from the British Government as an indemnity for slaves lost from on board the Comet and Encomium at Nassau, Bahamas.*

STATUTE III.

Feb. 18, 1843.

[Obsolete.]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the sum of seven thousand nine hundred and sixty-five dollars and twenty-eight cents, a balance of the indemnities received from the British Government for loss of slaves from on board the Comet and the Encomium, at Nassau, paid into the treasury by the late John Forsyth, be paid, on the order of the Secretary of State, to the persons or companies entitled thereto, or to their representatives; and that, for that purpose, the aforesaid sum be, and it is hereby, appropriated, to be paid out of any moneys in the treasury not otherwise appropriated.

Balance of indemnities to be paid to persons or companies entitled thereto.

APPROVED, February 18, 1843.

CHAP. XLIV.—*An Act altering the times of holding the circuit court of the United States for the district of Connecticut.*

STATUTE III.

Feb. 24, 1843.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the circuit court of the United States for the district of Connecticut, shall hereafter be held on the fourth Tuesday in April, and on the third Tuesday in September in each year, instead of the last Wednesday in April, and the seventeenth day of September, the times heretofore established by law. And all indictments, informations, recognisances, writs, suits, pleas, actions, motions, and all other proceedings, civil and criminal, shall be heard, tried, proceeded with, and determined by the said court, in the same manner as they might and ought to have been done, had the said court been holden at the times heretofore directed by law.

Changed to fourth Tuesday in April, and third Tuesday in September.

All proceedings to go on as heretofore.

APPROVED, February 24, 1843.

BY AUTHORITY OF CONGRESS.

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VOL. I.

BOSTON:  
CHARLES C. LITTLE AND JAMES BROWN.  
1845.



# TABLE NO. IV.

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The Land Ordinance of 1785 was adopted by the United States Congress on May 20, 1785.

Under the Articles of Confederation, Congress did not have the power to raise revenue by direct taxation of the inhabitants of the United States. Therefore, the immediate goal of the ordinance was to raise money through the sale of land in the largely unmapped territory west of the original states acquired at the 1783 (Treaty of Paris) after the end of the Revolutionary War. Over three-fourths of the area of the continental United States ultimately came under the rectangular survey. This was important because it provided easily recognized land descriptions, which in turn contributed enormously to the orderly and largely peaceful occupation of the land. The rectangular survey also provided the units within which economic, political, and social development took place.[1]

The Ordinance of 1784 was a resolution written by Thomas Jefferson (delegate from Virginia) calling for Congress to take action. The land west of the Appalachian Mountains, north of the Ohio River and east of the Mississippi River was to be divided into ten separate states.[2] However, the 1784 resolution did not define the mechanism by which the land would become states, or how the territories would be governed or settled before they became states. The Ordinance of 1785 put the 1784 resolution in operation by providing a mechanism for selling and settling the land,[3] while the Northwest Ordinance of 1787 addressed political needs.

The 1785 ordinance laid the foundations of land policy until passage of the Homestead Act in 1862. The Land Ordinance established the basis for the Public Land Survey System. The initial surveying was performed by Thomas Hutchins. After he died in 1789, responsibility for surveying was transferred to the Surveyor General. Land was to be systematically surveyed into square townships, six miles (9.656 km) on a side. Each of these townships were sub-divided into thirty-six sections of one square mile (2.59 km<sup>2</sup>) or 640 acres. These sections could then be further subdivided for re-sale by settlers and land speculators.[4]

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The ordinance was also significant for establishing a mechanism for funding public education. Section 16 in each township was reserved for the maintenance of public schools. Many schools today are still located in section sixteen of their respective townships[citation needed], although a great many of the school sections were sold to raise money for public education. In later States, section 36 of each township was also designated as a "school section".[5][6][7]

Knepper notes: "Sections number 8, 11, 26, and 29 in every township were reserved for future sale by the federal government when, it was hoped, they would bring higher prices because of developed land around them. Congress also reserved one third part of all gold, silver, lead, and copper mines to its own use, a bit of wishful thinking as regards Ohio lands." [8] The ordinance also said "That three townships adjacent to Lake Erie be reserved, to be hereafter disposed of by Congress, for the use of the officers, men, and others, refugees from Canada, and the refugees from Nova Scotia, who are or may be entitled to grants of land under resolutions of Congress now existing." This was not possible, as the area next to Lake Erie was property of Connecticut, so the Canadians had to wait until the establishment of the Refugee Tract in 1798.[9]

The Point of Beginning for the 1785 survey was where Ohio (as the easternmost part of the Northwest Territory), Pennsylvania and Virginia (now West Virginia) met, on the north shore of the Ohio River near East Liverpool, Ohio. There is a historical marker just north of the site, at the state line where Ohio State Route 39 becomes Pennsylvania Route 68.

The Continental Congress appointed a committee consisting of the following men:

Thomas Jefferson (Virginia) — Chairman

Hugh Williamson (North Carolina)

David Howell (Rhode Island)

Elbridge Gerry (Massachusetts)

Jacob Read (South Carolina)

[http://en.wikipedia.org/wiki/Land\\_Ordinance\\_of\\_1785](http://en.wikipedia.org/wiki/Land_Ordinance_of_1785)

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On May 7, 1784, the committee reported “An ordinance for ascertaining the mode of locating and disposing of lands in the western territories, and for other purposes therein mentioned.” The ordinance required the land be divided into “hundreds of ten geographical miles square, each mile containing 6086 and 4-10ths of a foot” and “sub-divided into lots of one mile square each, or 850 and 4-10ths of an acre”, [10] numbered starting in the northwest corner, proceeding from west to east, and east to west consecutively. After debate and amendment, the ordinance was reported to Congress April 26, 1785. It required surveyors “to divide the said territory into townships seven miles square, by lines running due north and south, and others crossing these at right angles. --- The plats of the townships, respectively, shall be marked into sections of one mile square, or 640 acres” This is the first recorded use of the terms “township” and “section.” [11]

On May 3, 1785, William Grayson of Virginia made a motion seconded by James Monroe to change “seven miles square” to “six miles square.” The ordinance was passed on May 20, 1785. The sections were to be numbered starting at 1 in the southeast and running south to north in each tier to 36 in the northwest. The surveys were to be performed under the direction of the Geographer of the United States, (Thomas Hutchins). [11] The Seven Ranges, the privately surveyed Symmes Purchase, and , with some modification, the privately surveyed Ohio Company of Associates, all of the Ohio Lands were the surveys completed with this section numbering. [12]

### Locations in Ohio using Land Ordinance of 1785 Section Numbering

The Act of May 18, 1796 [13] provided for the appointment of a surveyor-general to replace the office of Geographer of the United States, and that “sections shall be numbered, respectively, beginning with number one in the northeast section, and proceeding west and east alternately, through the township, with progressive numbers till the thirty-sixth be completed.” All subsequent surveys were completed with this boustrophedonical section numbering system, except the United States Military District of the Ohio Lands which had five mile (8 km) square townships as provided by the Act of June 1, 1796, [14] and amended by the Act of March 1, 1800. [11][15]



[http://en.wikipedia.org/wiki/Land\\_Ordinance\\_of\\_1785](http://en.wikipedia.org/wiki/Land_Ordinance_of_1785)

continued

Howe and others give Thomas Hutchins credit for conceiving the rectangular system of lots of one square mile in 1764 while a captain in the Sixtieth, or, Royal American, Regiment, and engineer to the expedition under Col. Henry Bouquet to the forks of the Muskingum, in what is now Coshocton County, Ohio. It formed part of his plan for military colonies north of the Ohio, as a protection against Indians. The law of 1785 embraced most of the new system.[16] Treat, on the other hand, notes that tiers of townships were familiar in New England, and insisted on by the New England legislators.[17]

1. Vernon Carstensen, "Patterns on the American Land." Journal of Federalism, Fall 1988, Vol. 18 Issue 4, pp 31-39
2. Richard P. McCormick, "The 'Ordinance' of 1784?," William and Mary Quarterly, Jan 1993, Vol. 50 Issue 1, pp 112-22
3. Journal of Continental Congress, Vol. 28, p. 375, May 20, 1785 Library of congress
4. C. Albert White, A History of the Rectangular Survey System (Bureau of Land Management, 1983)
5. White, A History of the Rectangular Survey System
6. Williamson 1880 : 226
7. The Oregon Territory Act (August 14, 1848) 9 Stat. 323 initiated practice of setting aside section 36 for schools: Section 20 "And be it further enacted, That when the lands in the said Territory shall be surveyed under the direction of the Government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said Territory shall be, and the same is hereby, reserved for the purpose of being applied to schools in said Territory, and in the States and Territories hereafter to be erected out of the same."
8. Knepper 2002 : 9
9. Knepper 2002 : 51
10. Journal of Continental Congress, Vol. 27, p. 446, May 28, 1784 Library of congress
11. a b c Higgins 1887 : 33–34, 78–82
12. Peters 1918 : 58
13. 1 Stat. 464 - Text of Act of May 18, 1796 Library of Congress
14. 1 Stat. 490 - Text of Act of June 1, 1796 Library of Congress
15. 2 Stat. 14 - Text of Act of March 1, 1800 Library of Congress
16. Howe 1907 : 134
17. Treat 1910 : 179-182

[http://en.wikipedia.org/wiki/Land\\_Ordinance\\_of\\_1785](http://en.wikipedia.org/wiki/Land_Ordinance_of_1785)  
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from Daubenmire, Dave (Coach). The History of the United States. (2007 April 19).  
Posted by Chris Rodda at <http://www.talk2action.org/story/2007/4/19/214135/275/>

Article III of the Northwest Ordinance was the work of a Massachusetts man named Manasseh Cutler. Dr. Cutler, a minister and former army chaplain, was also one of the directors of the Ohio Company of Associates, a land speculating company comprised of former army officers. In the summer of 1787, the Ohio Company was negotiating with the Continental Congress to buy a large amount of land in the Northwest Territory.

Because the sale of public lands was the only way Congress had to pay off the large public debt from the Revolutionary War, the Ohio Company knew they had the upper hand in the negotiations, and would not make a move towards purchasing the land until Congress adopted a new ordinance that better suited their plans. The result was the Northwest Ordinance.

There is no question that the ordinance's provisions regarding religion, education, and slavery were written and insisted on by Cutler. A number of nineteenth century articles about the history of the ordinance refer to a note written in the margin of the Ohio Company's copy crediting Cutler with these provisions. But, the original wording of Cutler's education provision clearly gave the government of the Northwest Territory the authority to promote religion. As much as Congress had to go along with the demands of the Ohio Company, this apparently went too far.

The original wording was: Institutions for the promotion of religion and morality, schools and the means of education shall forever be encouraged.(1)

The ordinance as enacted said: Religion, Morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.

Other parts of the Northwest Ordinance, however, did raise constitutional questions for the early Congresses, leading to an opinion in 1802, and reaffirmed in 1816, 1818, and 1835, that the ordinance was nothing more than an act of Congress, with no more force or inviolability than any other act of Congress. In fact, they didn't even use it for Wisconsin, the last of the Northwest Territory states, but instead wrote a new act for the temporary government of the Wisconsin Territory.



from Daubenmire, Dave (Coach). The History of the United States. (2007 April 19).  
Posted by Chris Rodda at <http://www.talk2action.org/story/2007/4/19/214135/275/>  
continued

The U.S. Code Annotated lists the Northwest Ordinance as one of four "Organic Laws of the United States." The other three are the Constitution, the Declaration of Independence, and the Articles of Confederation. Authors like Barton use the ordinance's inclusion in this list to support the notion that its Article III was as inviolable as an article of the Constitution.

But, it wasn't. As already mentioned, the very first time that Congress used the ordinance to admit a state, they substituted a different education provision for the one in Article III.

The substituted education provision in the 1802 enabling act for Ohio was similar to that in the 1785 Ordinance for ascertaining the mode of disposing of lands in the Western Territory, the ordinance that was replaced in 1787 by the Northwest Ordinance.

The 1785 ordinance, as originally drafted by Thomas Jefferson in 1784, contained nothing regarding either religion or education. In 1785, however, the committee appointed to prepare this ordinance proposed that the following be added. There shall be reserved the central Section of every Township, for the maintenance of public Schools; and the Section immediately adjoining the same to the northward, for the support of religion. The profits arising therefrom in both instances, to be applied for ever according to the will of the majority of male residents of full age within the same.(2)

A debate on this proposal quickly removed most of it. First, a motion was made to replace the words "for the support of religion" with "for religious and charitable uses," then another to delete from that "religious and," so that it would simply read "for charitable uses." When the ordinance was read again three days later, the land grant for religion had been removed entirely. The following is all that was left of the proposed article.

There shall be reserved the central section of every township, for the maintenance of public schools within the said township.(3)

Even though the religious land grants were quickly removed from this provision, James Madison couldn't believe that the original proposal had even been considered by the committee, writing the following to James Monroe:

from Daubenmire, Dave (Coach). The History of the United States. (2007 April 19).  
Posted by Chris Rodda at <http://www.talk2action.org/story/2007/4/19/214135/275/>  
continued

It gives me much pleasure to observe by 2 printed reports sent me by Col. Grayson that, in the latter Congress had expunged a clause contained in the first for setting apart a district of land in each Township for supporting the Religion of the majority of inhabitants. How a regulation so unjust in itself, foreign to the Authority of Congress, so hurtful to the sale of the public land, and smelling so strongly of an antiquated Bigotry, could have received the countenance of a Committee is truly matter of astonishment.(4)

In 1802, one of Congress's goals when admitting Ohio as the first part of the Northwest Territory as a state was to get the new state to agree to giving up the right to tax any land sold by the United States until ten years after it was purchased. This, of course, would make it easier for Congress to sell the land. The deal offered to Ohio in exchange for this included land grants for schools, as in the ordinance of 1785, in lieu of the vague statement about encouraging schools in Article III of the Northwest Ordinance. Since no legislation had been passed that conflicted with the 1785 provision for school land grants, the committee simply drew from that ordinance, drafting a new education provision for Ohio's enabling act.

The committee observe, in the ordinance for ascertaining the mode of disposing of lands in the Western Territory of the 20th of May, 1785, the following section, which, so far as respects the subject of schools, remains unaltered:

"There shall be reserved for the United States out of every township, the four lots, being numbered, 8, 11, 26, 29, and out of every fractional part of a township, so many lots of the same numbers as shall be found thereon. There shall be reserved the lot No. 16 of every township, for the maintenance of public schools within the said township. Also one third part of all gold, silver, lead and copper mines, to be sold, or otherwise disposed of, as Congress shall hereafter direct."

"They have, therefore, deemed it proper, in lieu of the said provisions, to offer the following to the Convention for the Eastern State of the said Territory, when formed, for their free acceptance or rejection, without any condition or restraint whatever; which, if accepted by the Convention, shall be obligatory upon the United States:

from Daubenmire, Dave (Coach). The History of the United States. (2007 April 19).  
Posted by Chris Rodda at <http://www.talk2action.org/story/2007/4/19/214135/275/>  
continued

“1st. That the section No. 16, in every township sold, or directed to be sold by the United States, shall be granted to the inhabitants of such townships, for the use of schools.(5)

The school land grant provision written for Ohio set the precedent for education provisions for the subsequent states. So, not only didn't Article III require religious education to begin with, its education provision was never even used.

1. Roscoe R. Hill, ed., Journals of the Continental Congress, 1774-1789, vol. 32, (Washington D.C.: Government Printing Office, 1936), 318.
2. John C. Fitzpatrick, ed., Journals of the Continental Congress, 1774-1789, vol. 28, (Washington D.C.: Government Printing Office, 1933), 293.
3. *ibid.*, 301.
4. James Madison to James Monroe, May 29, 1785, Letters and Other Writings of James Madison, vol. 1, (New York: R. Worthington, 1884), 154.
5. The Debates and Proceedings of the Congress of the United States of America, vol. 11, 7th Cong., 1st Sess., (Washington D.C.: Gales & Seaton, 1851), 1099-1100.



Treat, Payson Jackson (1910). The National Land System 1785-1820. Published by E.B. Treat and Co. Excerpt from plain text file:

[http://www.archive.org/stream/nationallandsyst00trea/nationallandsyst00trea\\_djvu.txt](http://www.archive.org/stream/nationallandsyst00trea/nationallandsyst00trea_djvu.txt)

In chapter Origin of the Federal Land System, pages 34-35.

In Congress the opposition was mainly directed against the 'township planting' feature of the report. There is no record of any Southern member urging the system of indiscriminate locations,' which at the very time was being extended by Virginia and North Carolina. Apparently all accepted the advantages of the rectangular surveys before sale.

Typical of the spirit of the times was the passage, by the New York Legislature, on April 11, of a land law which provided for townships of six miles square, and should a body of persons unite to purchase such a township they would receive land for schools and a minister and five per cent of the price for roads; but smaller tracts, up to 500 acres and laid off in equilateral squares, might be sold.

Accepting the rectangular surveys did not, however, mean an acceptance of the New England system of 'township planting'. The delegates from the South, therefore, sought to amend the clause which provided that the land could only be sold by townships; they would make it possible for settlers to purchase smaller amounts wherever they desired.

This, then, was a clash between the strict New England system of compact settlements and discriminate locations and a modified Southern system of rectangular surveys but individual locations.

Treat, Payson Jackson (1910). The National Land System 1785-1820. Published by E.B. Treat and Co. Excerpt from plain text file:

[http://www.archive.org/stream/nationallandsyst00trea/nationallandsyst00trea\\_djvu.txt](http://www.archive.org/stream/nationallandsyst00trea/nationallandsyst00trea_djvu.txt)

In chapter The Abolition of the Credit System, page 121

The Indiana Act of 1804, in spite of its local character, contained several provisions of general application. Most important of these was the clause permitting the sale of quarter-section tracts.

This was in line with the demands of Western Congressmen and settlers from the earliest period. The question had been raised and discussed time and again. Its incorporation in the present bill was probably due directly to the recommendation of Gallatin and the House committee, but it was in keeping with the general development of the land system.

Another provision of general application was that which authorized the computation of interest only after a payment was due. This had been foreshadowed by the preemption clauses in the acts of 1801 and 1803. Of course it materially reduced the charges of the purchaser who availed himself of the credit system, but in the case of the man who could pay cash the price was reduced from \$1.84 to \$1.64 an acre, a very considerable reduction. The sale of fractional sections singly or by uniting two or more, the abolition of fees, the provision for deputy surveyors, and the new compensation for Registers and Receivers, were all general provisions.

With this act the questionable practice of reserving three sections in each township 'for the future disposition of Congress' was abandoned.

The Federal Land Policy and Management Act (FLPMA) of 1976.  
How the Stage Was Set for BLM's Organic Act.  
<http://www.blm.gov/flpma/organic.htm>

During the period from Colonial times to the late 1800s, U.S. Government policy was essentially to dispose of all lands acquired by almost any means (e.g., the Louisiana Purchase of 1803) into private hands for settlement and development, to both create national wealth and secure sovereignty. There was an unquestioned belief that land and resources were to be improved and used, and that development would proceed most efficiently through private means.

The General Land Office (GLO) was created in 1812 to dispose of public domain lands in the mid-West and West. During the GLO's existence, over 1 billion acres of land were transferred from Federal to State and private ownership under Federal land laws, including the various homesteading and settlement laws and Statehood acts.

Numerous management authorities governing the use of the public lands and their resources accumulated from the early 1800s to the mid-1900s — in fact, there were thousands of them. These disparate authorities often resulted in fragmented, inefficient, and sometimes inconsistent resource management. These laws applied not only to grazing and land disposal, but also to mineral leasing and mining, timber harvesting, homesteading, and other subjects. The result was rapid economic development of the growing nation, but also some very obvious waste of resources.

By the 1870s, enough perceived problems had emerged with land disposition that the first moves toward public land retention were enacted by Congress. There was a growing sense that many lands, because of either their great public value (as in the case of the lands that would become Yellowstone National Park) or their remoteness and apparent lack of value, should be held in the public trust. This shift in attitude was based on the notion that there was a legitimate national interest in the remaining unsettled lands, and that this interest would be best served by Federal ownership. The reservation of Yellowstone National Park in 1872, and the 1891 General Land Reform Act that created the forest reserves, formally marked this change in public and Congressional thinking. The next four decades saw reservation (by various means, from Acts of Congress to Presidential Orders) from private ownership of essentially all of the Federal lands now in existence in the lower 48 states.



The Federal Land Policy and Management Act (FLPMA) of 1976.

How the Stage Was Set for BLM's Organic Act.

<http://www.blm.gov/flpma/organic.htm>

continued

After many studies in the early 1960s, Congress established the bipartisan Public Land Law Review Commission in 1964 to make recommendations on how the public lands should be managed. The Commission's efforts culminated in the 1970 report to the President and Congress entitled *One Third of the Nation's Land*. After deliberations in three successive Congresses, the Federal Land Policy and Management Act was passed in 1976. Via this Act, Congress expressly declared as policy that the remaining public domain lands would be retained in Federal ownership unless disposal of a particular parcel served the national interest. FLPMA was designated as Public Law 94-579.

Retention of lands does not exclude private interests from actually developing and using the resources on public lands. The important role of private companies of all sorts, from timber companies to park concessionaires — who provide services and derive profit from public resources — continues today. FLPMA's formal declaration of a Federal retention policy was nevertheless a significant factor in the "Sagebrush Rebellion," a campaign by many westerners who still hoped that the substantial Federal presence might be reduced through Federal land transfers to private or State ownership. Begun in 1979 with the Nevada Assembly's passage of a bill calling for State control of BLM lands, the Sagebrush Rebellion had largely run its course by 1981.

FLPMA is called the BLM Organic Act because it consolidated and articulated BLM's management responsibilities. Many land and resource management authorities were established, amended, or repealed by FLPMA, including provisions on Federal land withdrawals, land acquisitions and exchanges, rights-of-way, advisory groups, range management, and the general organization and administration of BLM and the public lands. FLPMA also established BLM as a multiple-use agency — meaning that management would be accomplished on the basis of multiple use and sustained yield unless otherwise specified by law — and provided that:

The Federal Land Policy and Management Act (FLPMA) of 1976.

How the Stage Was Set for BLM's Organic Act.

<http://www.blm.gov/flpma/organic.htm>

continued

. . . the national interest will be best realized if the public lands and their resources are periodically and systematically inventoried and their present and future use is projected through a land use planning process coordinated with other Federal and State planning efforts . . .

FLPMA also specified that the United States receive fair market value for the use of the public lands and their resources unless otherwise provided for by statute, and that:

. . . the public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use . . .

In short, FLPMA proclaimed multiple use, sustained yield, and environmental protection as the guiding principles for public land management. Thanks to FLPMA, BLM manages public lands so that they are utilized in the combination that will best meet the present and future needs of the American people for renewable and non-renewable natural resources.

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From Part I

This division between the policies of the northern colonies and those of the southern colonies is vividly illustrated by the example of two adjacent counties separated by the Mason-Dixon Line: York County Pennsylvania and Harford County Maryland.

Like most Pennsylvania counties, York County is subdivided into townships that were settled and named over two centuries ago. One can deduce much about the county's history by noting the names of its townships, and the municipalities that grew from them. On one side of the county, we find townships named Lancaster, Manchester, Shrewsbury, and Windsor, and the City of York. On the other side, we find the Townships of Heidelberg and Manheim, and the Borough of Hanover. Anyone familiar with the geography of Europe will surely recognize the nationalities of the immigrants who originally settled these townships -- even if they misspelled Mannheim.

Just across the state line south of York County, we find Harford County, Maryland. Like all counties in the southern colonies, Harford County has no townships; local administration rests with the county government. For administrative convenience, the county is subdivided into six districts, but the names of these districts don't tell us much about the county's history: they're called A, B, C, D, E, and F.

Why do these differences exist?

I've pondered this question for years, and I've never been able to answer it to my own satisfaction.

Donald Miller, the host of the PBS television series, "A Biography of America," [21] notes the differences between the northern and the southern colonies in Program 2. He describes "two profoundly different colonies, Virginia and Massachusetts Bay," noting their "vastly different civilizations," "almost as different from one another as they were from England." So perhaps the differences in local-government structures is just another manifestation of the differences between those two "vastly different civilizations."



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From Part II

The second problem was political: the Congress wanted to create a structure that would encourage local residents to form territorial and local governments. But they had to do it with the tools at hand: by ordinance, and by whatever procedures they could build into the land-surveying process. The Northwest Ordinance would be the vehicle for encouraging the creation of territories and states, but they still needed a way to encourage local government. Congress' solution to this problem is found in the Land Ordinance: "townships of six miles square." Thus, the concept of the civil township, as a unit of local government, was embodied in the land-surveying process itself. Once the land was settled, it was hoped, the residents of each township would form a township government.

Of course, until the local residents actually did so, these "townships" weren't townships at all; they were just lines drawn on a map. It's a long way from a Congressional township to a civil township. For a civil township to exist, the local residents have to organize one: they have to get together, petition the county (if one exists) for approval, petition the state (or territorial) government for a charter, hold elections, enact ordinances, and become a functioning entity.

Nevertheless, the vision of the Second Continental Congress seems clear. If it couldn't pre-ordain the westward expansion, it did the best it could: in the process of creating a structure for surveying the western lands into salable parcels, it also created a structure that would encourage local residents to form local governments.

## Acquisition of the Public Domain

[http://www.nps.gov/history/history/online\\_books/blm/history/chap1.htm](http://www.nps.gov/history/history/online_books/blm/history/chap1.htm)

"The back Lands [sic] claimed by the British Crown," contended Maryland legislators in November 1776, "if secured by the blood and treasure of all, ought in reason, justice, and policy...be considered as a common stock." With that declaration, Maryland raised the issue of what should become of the territory between the Appalachian Mountains and the Mississippi River. The issue proved contentious and threatened the bonds that held the new union of states together.

## Original Public Domain

Seven states had claims to the region. Virginia, Massachusetts, Connecticut, North Carolina, South Carolina, and Georgia had early colonial charters from England granting them title to the lands beyond the Appalachians. New York's claim resulted from concessions by the Iroquois Indians. The remaining states had no claims to the area.

For states without land claims, like Maryland, the disposition of western lands was of major importance. They needed land to reward the soldiers who served in their regiments against the British. Maryland also feared that if Virginia and the other land-claim states took title to lands in the trans-Appalachian West, they would dominate the nation economically and politically. Maryland demanded that the land-claim states relinquish their title to the central government and vowed not to sign the Articles of Confederation until that was done.

The land-claim states resisted Maryland's demand at first. Virginia, Maryland's chief antagonist, declared that the central government had no claim to the western lands. The resolve of Virginia and the other land-claim states, however, weakened as they realized the importance of having Maryland in the union and recognized that their conflicting claims to the western lands could threaten their relations with each another. New York in 1780 took the first step toward compromise by offering to cede its claim to lands beyond the Appalachians to the central government. Maryland reciprocated by signing the Articles of Confederation.

## Acquisition of the Public Domain

[http://www.nps.gov/history/history/online\\_books/blm/history/chap1.htm](http://www.nps.gov/history/history/online_books/blm/history/chap1.htm)

continued

Most southern delegates favored a system of indiscriminate location and subsequent survey, as had been the practice in their states. Others advocated more orderly settlement, voicing arguments set forth by Thomas Jefferson, that indiscriminate location with subsequent survey led only to costly and protracted lawsuits as owners sought to establish boundaries. What they wanted was a system, like in New England, where survey preceded settlement.

The Confederation in the Land Ordinance of May 20, 1785, opted for the policy of orderly settlement.

The United States reserved Lot 16 in each of the townships to provide revenue for public schools as well as four other lots for later sale. The government also reserved rights to one third interest in any gold, silver, lead, or copper that might be found.

The United States ratified the Constitution in 1788, rendering the Land Ordinance of 1785 inoperable. A new public land policy had to be enacted. By Article IV, Section 3, Clause 2, of the Constitution, the task fell to Congress, for it had the "Power to dispose of and make all needful Rules and Regulations respecting the Territory and other Property belonging to the United States."



Wilson, Linda D. Common School Indemnity Lands. © Oklahoma Historical Society at <http://digital.library.okstate.edu/encyclopedia/entries/C/CO039.html>

Since the enactment of the Land Ordinance of 1785 by the United States Congress, one section (section sixteen) of land in each township has been reserved for the support of the public elementary school known as the common school. After 1848 section thirty-six was also set aside. In Oklahoma Territory (O.T.), according to the Organic Act of 1890, if sections sixteen and thirty-six were claimed by American Indians through allotment or by settlers before the land was surveyed, other land was allotted in lieu of those sections. These "in lieu" lands were known as common school indemnity lands. The Organic Act prohibited leasing the land. Realizing no financial benefit from the school lands, Territorial Gov. George Steele appealed to Congress, which passed an act on March 3, 1891, authorizing the lease of the land.

Additional lands were set aside in O.T. through the proclamation signed by Pres. Grover Cleveland for the land opening of the Cherokee Outlet in 1893. Section thirteen was allotted for the support of higher education and section thirty-three for the construction of public buildings. On March 2, 1895, Congress passed an act granting the allotment of lands in lieu of sections thirteen and thirty-three if these sections were occupied by individuals or military installations such as Fort Sill. Consequently, Oklahoma had state educational institutions indemnity lands and public building indemnity lands in addition to common school indemnity lands.

In 1904 the Board for Leasing Territorial Land reported that O.T. had lease income of \$102,421 from 214,651 acres of common school indemnity lands. At 1907 statehood the Commissioners of the Land Office replaced the territorial board. The commissioners took control of 3,177,480 acres of land from all sources valued at \$11.2 million and \$5 million in cash granted by Congress as indemnity for the lack of school lands in Indian Territory.

In a 1908 general election Oklahoma voters rejected State Question 5, which would have permitted the sale of school and public lands. However, in 1909 the state legislature passed an act authorizing the sale of school lands. Through the years parcels of school lands have been sold with the proceeds deposited in the permanent school fund.

Utah Enabling Act, 1894.

An act of Congress authorizing the territory of Utah to ratify a Constitution and to be admitted into the Union. from [http://en.wikisource.org/wiki/Utah\\_Enabling\\_Act,1894](http://en.wikisource.org/wiki/Utah_Enabling_Act,1894)

AN ACT to enable the People of Utah to form a Constitution and State Government, and to be admitted into the Union on an equal footing with the original States.

SEC. 6. That upon the admission of said State into the Union, sections numbered two, sixteen, thirty-two and thirty-six in every township of said proposed State, and where such sections or any parts thereof have been sold or otherwise disposed of by or under the authority of any act of Congress; or other lands equivalent thereto, in legal subdivisions of not less than one quarter section, and as contiguous as may be to the section in lieu of which the same is taken, are hereby granted to said State for the support of common schools, such indemnity lands to be selected within said State in such manner as the Legislature may provide, with the approval of the secretary of the interior; Provided, That the second, sixteenth, thirty-second and thirty-sixth sections embraced in permanent reservations for national purposes shall not, at any time, be subject to the grants nor to the indemnity provisions of this act, nor shall any lands embraced in Indian, military, or other reservations of any character be subject to the grants or to the indemnity provisions of this act until the reservation shall have been extinguished and such lands be restored to and become a part of the public domain.

SUPREME COURT OF THE UNITED STATES

392 U.S. 409

Jones v. Alfred H. Mayer Co.

No. 645 Argued: April 1-2, 1968 --- Decided: June 17, 1968

[http://www.law.cornell.edu/supct/html/historics/USSC\\_CR\\_0392\\_0409\\_ZO.html](http://www.law.cornell.edu/supct/html/historics/USSC_CR_0392_0409_ZO.html)

Part IV

In its original form, 42 U.S.C. § 1982 was part of § 1 of the Civil Rights Act of 1866. [n28]  
That section was cast in sweeping terms:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all persons born in the United States and not subject to any foreign power, . . . are hereby declared to be citizens of the United States, and such citizens, of every race and color, without regard to any previous condition of slavery or involuntary servitude, . . . shall have the same right, in every State and Territory in the United States, to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property, as is enjoyed by white citizens, and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom, to the contrary notwithstanding. [n29] [p423]

The crucial language for our purposes was that which guaranteed all citizens

the same right, in every State and Territory in the United States, . . . to inherit, purchase, lease, sell, hold, and convey real and personal property . . . as is enjoyed by white citizens.  
. . .

To the Congress that passed the Civil Rights Act of 1866, it was clear that the right to do these things might be infringed not only by "State or local law", but also by "custom, or prejudice." [n30] Thus, when Congress provided in § 1 of the Civil Rights Act that the right to purchase and lease property was to be enjoyed equally throughout the United States by Negro and white citizens [p424] alike, it plainly meant to secure that right against interference from any source whatever, whether governmental or private. [n31]



<http://www.lincolnst.edu/subcenters/managing-state-trust-lands/publications/trustlands-history.pdf>

12 page article describes school land reservations in all territories, and covers most but not all the issues and implications.