UNITED STATES SENATE.
EXTRA SESSION.

MONDAY, March 8, 1841.

Mr. MERRICK moved to take up the resolution submitted by him on Saturday,—that on Monday (to-day) at 12 o'clock, the Senate proceed to the election of Sergeant-at-Arms and Door-keeper.

Mr. BUCHANAN should vote against the resolution. At the death of Judge Haight (the late Sergeant-at-Arms,) the Senator from New York made a strong appeal to this body in behalf of his widow, and arrangements were at that time made, under which she was to receive the entire salary of the term for which he was elected. The Door-keeper at that time agreed to perform the duty of Sergeant-at-Arms.—This course was pursued from motives of the purest charity,—that the Government of the United States might not be compelled to pay two salaries, and at the same time, the widow might receive that of which she stood greatly in need. Now, at the very close of this Executive session, when there was no earthly need of a Sergeant-at-Arms, why should be imposed on the Treasury the payment of double salaries?—When they had the power, they refrained from this election; for the purpose of doing this charity, determining that they would not elect a Sergeant-at-Arms. They had a right to have elected one—there was no such officer. Now, when the election might as well be postponed to the meeting of the 27th Congress, he should not vote for it; and respectfully called the yeas and nays on the question.

Mr. MERRICK should not discuss the question at length.

The office was one of great importance. That Congress had granted a sum of money to the widow of the late Sergeant-at-Arms, was very good in itself. But it certainly formed no reason why they should be deprived of such an officer. The office now was vacant, and it was proper that it should be filled, and on this account he had moved to fill it.

Mr. ROBINSON read the rule of the Senate, providing that on the second Monday of the first session of each Congress, the Senate should elect their Sergeant-at-Arms, &c.

Mr. KING said that, after having given to their preceding officer the salary of a whole year, when there was not a particle of business to be performed, they were determined to go into the election of an officer, they were about to give a salary for the discharge of no duty whatever. If this was the *reform* that had been promised, really the new Administration party had much to boast of.

Here an officer of the Senate, not wanted for one solitary duty, was to be forced on them merely to give him the salary.

He spoke plainly. No gentleman could deny it. No gentleman could get up in his place and say that this officer was wanted—and if not, why elect him? They had got along in the business and confusion, and transacted all the business during the past session with their present officer.

If this was to be a specimen of what might be expected from this Administration, many estimable citizens who gave them their support under the impression that economy was to be the order of the day, would turn with regret from what they had done.

Senators must remember that they were responsible to the people, and to the people he would leave them.

Mr. CLAY, of Kentucky, said it really appeared to him that gentlemen on the other side, were disposed to make a great deal out of small affairs. On what authority (he asked) did the Alabama Senator venture the assertion, that this resolution, if passed, amounted to nothing but to provide an office for the purpose of filling it?

Mr. KING said, *the fact itself*.

Mr. CLAY. There was none. There was an existing office with certain duties attached to it. It was vacant. If the office was unnecessary, bring forward a proposition to abolish it—dispense with it altogether. And if that was done, they would not undertake to fill the office, whilst such a proposition was under consideration. Here was an existing office with all its duties attached to it. There might be, and in all probability would be, an extra session of Congress. He spoke on common rumor—on information attributed to the President of the United States himself, on a recent visit at Richmond, when he declared his intention to call an extra session. Suppose an extra session took place—was it not of some consequence then that this office should be filled?—And if by a new person, was it not of consequence that he have an opportunity to become acquainted with its duties?

If there was an extra session, he believed no one would deny that there should be a Sergeant-at-Arms appointed. If there was an extra session two months hence, the salary being $1500 per year, the salary to that time would amount to $250.

It was not with little matters of this sort, that they had held out to the country these promises of retrenchment, but on the great and important sources of expenditures, these monstrous leaks on the Treasury, which had reduced it to a state of bankruptcy: this was the kind of reform which the new administration would benefit the country by making.

But gentlemen talked about having used the salary by a grant. That was to say, that gentlemen, those in the majority, had made a charitable grant to the widow of Judge Haight, and because they had exercised their charity in this way, the public was not to be furnished with an officer whose duties were necessary. Was this the sort of reasoning by which they were to be detained from the performance of a necessary duty?

He did not complain of this charity; but he denied that on this account they should not fill all offices, the duties of which might be necessary, and in all human probability would be necessary in the course of some forty, fifty or sixty days from this time.

As to the rule. It was a standing rule requiring biennial elections of certain officers. And what was the purpose of the rule? To bring these officers in review periodically before the Senate, that the Senate might decide on the expediency of their re-election. Did any human being suppose, if a vacancy occurred by death in the office of both Sergeant-at-Arms and Door-keeper, the day after their election, that the Senate were to wait till the expiration of two years, before these offices were filled? No. Here was an office to be filled, the duties of which, in all human probability, would become indispensably necessary in a short time, and it was proposed to fill this office. He hoped that gentlemen would perceive, that it was not a case in which any thing could be gained by a protracted argument.

Mr. MERRICK modified the resolution, making the time Monday, the 8th March, *at 1 o'clock*.

Mr. KING farther opposed the resolution.

Mr. SMITH, of Ia., should vote for the resolution. He adverted to what had taken place in the case. Notwithstanding they did not fill this office—notwithstanding the Door Keeper agreed he would perform the duties of the station, and, notwithstanding the amount given to the widow of the late Sergeant; from that quarter, came a resolution giving to the present door-keeper $1,000 extra for about six weeks service, in discharging the duties of that office. It passed this body, giving $500, thus giving a double salary to one officer.

He advocated the resolution, therefore, on the ground of economy.

The discussion was farther continued by Messrs. KING, SEVIER, BENTON, and MERRICK.

Mr. BENTON moved that the resolution be postponed till the second Monday of next session of Congress, and on this called the yeas and nays, which were ordered and resulted thus:

YEAS—Messrs. Allen, Benton, Buchanan, Calhoun, Clay, of Ala., Cuthbert, Fulton, King, Linn, McRoberts, Nicholson, Sevier, Smith, of Conn., Sturgeon, Tappan, Walker, Williams, Wright, Woodbury, and Young.—20.

NAYS—Messrs. Archer, Barrow, Berrien, Bates, Bayard, Clay, of Ky., Choate, Clayton, Dixon, Evans, Graham, Henderson Huntington, Kerr, Morehead, Mangum, Merrick, Miller, Porter, Preston, Rives, Simmons, Smith, of Ind., Southard, Tallmadge, White, and Woodbridge.—26.

Thus the motion failed.

The question then recurring on the resolution, after a few remarks from Mr. WRIGHT in opposition to it, the question was taken, and the resolution adopted, by yeas and nays, as follows:

YEAS—Messrs. Archer, Barrow, Berrien, Bates, Bayard, Clay, of Ky., Clayton, Choate, Dixon, Evans Henderson, Huntington, Kerr, Mangum, Merrick Miller, Morehead, Porter, Preston, Rives, Simmons Smith, of Ind., Southard, Tallmadge, Woodbridge and White—26.

NAYS—Messrs. Allen, Benton, Buchanan, Calhoun, Clay, of Ala., Cuthbert, Fulton, King, Linn, McRoberts, Nicholson, Sevier, Smith, of Conn., Sturgeon, Tappan, Walker, Wright, Woodbury, and Young—19.

The Senate then proceeded to ballot for Sergeant at-arms.

The President on a canvass of the votes, declared that forty-six votes had been cast, and twenty-four were necessary for an election.

Mr. EDWARD DYER, of Washington, having received twenty-six votes, was declared elected.

Mr DYER then took the oath of office, administered by the President.

Mr. MANGUM moved that the Senate take up the resolution now before them, viz:

Resolved, That Blair & Rives be dismissed as printers of the Senate for the 27th Congress.

Mr. MANGUM said this had been so fully discussed some two weeks since that he deemed it wholly unnecessary to add a single word to what was then said.

He should not, on his part, and he perceived no necessity for remarks; he hoped, therefore, the question would immediately be taken on the resolution.

Mr. BENTON called for the reading of the bond.

Mr. BUCHANAN had no doubt but execution was to be done, and that speedily, on Blair & Rives. But, before that, he had a few words to say—not in arresting judgment, because he knew that would be vain, but for the purpose of stating his idea of the character of this case. He apprehended that a principle would be established by this proceeding long to be remembered in this country, and deprecated.

In the Inaugural Address which was delivered the other day he found this sentiment:

"It was the remark of a Roman Consul, in an early period of that celebrated Republic, that a most striking contrast was observable in the conduct of candidates for offices of power and trust, before and after obtaining them—they seldom carrying out, in the latter case, the pledges and promises made in the former. However much the world may have improved, in many respects, in the lapse of upwards of two thousand years since the remark was made by the virtuous and indignant Roman, I fear that a strict examination of the annals of some of the modern elective governments, would develope similar instances of violated confidence."

What is the aspect before us? Let us venture our opinion on it. Does it not illustrate the position in the most striking manner, cited by that distinguished man, now President of the U. States. This was not a case of removing an officer of the Senate, or *quasi* officer—no such thing. But, the case of the Senate undertaking to violate as solemn a contract as could ever be entered into by human language. The case of the Senate, now making an attempt, in which they would succeed—after a contract had been made, and after these men—American citizens, have acquired such rights under this contract—done before the world, he would not be afraid to leave the question to any Judicial Tribunal,—the question of the Senate coming in by might and power, and trampling this contract under foot, and we would suppose from the style in which it is done, that we had a distinguished; Military Chieftain at the head of our Government, its language was very precise, striking, and much to the point:

Resolved, That Blair & Rives be dismissed as printers to the Senate for the 27th Congress.

Short, pointed, directly to the purpose. It was in the style of Richard the Third—"*off with his head, so much for Buckingham.*" And, if reasons were as thick as black-berries, he supposed their friends would not give them one; and why? He believed there was not one. Had not Blair & Rives faithfully performed their duties as *printers* to the Senate? And why were they to be dismissed in *this military style*?

Was it not because they were editors of a political newspaper, which has contained editorial articles in opposition to the present Administration party?

"*Off with the head.*" What sin had ever poor Mr. Rives committed—a partner of the firm—a mechanic; who had entered into this contract, that he is to be executed, and the sin of Mr. Blair must be visited on his head, and the whole Globe be prostrated on account of the sins of one of its printers.

This was not a matter, as he humbly conceived, to jest about, but a question, and he said so with the utmost solemnity and sincerity,—of greater importance than had been before the Senate of the United States, since he had been a member of the body.

Let us give the facts. In 1819, a joint resolution passed Congress, approved by the President of the United States, declaring that each House of Congress, previous to the adjournment of the old Congress, should elect and provide a proper person to execute the printing for the next session of Congress. The resolution fixed the manner in which the printing was to be performed. It stated the prices which the contractors were to receive; and the obvious policy of the resolution was clear—it was utterly impossible that any man could be prepared (without any notice) for the performance of it. Was there any thing in this resolution which called this mechanic an officer of the Senate, or in the nature of his employment? The resolution itself spoke of a *contract*, and that of the most solemn character. First, he was to give bond and security that he will execute the work with neatness, fidelity, and despatch. And what power is granted to your Clerk under the terms of this resolution, if your printer fails to comply with it? The Secretary has a right to employ another, and if he pays an increased price, the inference is to be deducted from the other's wages.

There stands the case. A solemn contract entered into by an existing law, confirmed in 1829; and here was a requisite election under the law- bonds and security were given—a contract, perfect and complete for two years under the resolution; and Blair and Rives had now as good a right, on tendering performance to demand payment, as a person had in any bargain. Ten times in succession had the Senate acted under the joint resolution of 1819—ten times elected printer—ten times submitted to this election, and the eleventh occasion, which was the present, they were to controvert what had before been done by the Senate: and what is the reason? Our predecessors *have all been wrong*. The Congress which passed the resolution *knew nothing about the provisions of the Constitution*. All Congresses which have acted on this rule *have been perfect doats*.

But they were told that it was so plainly a violation of the Constitution of the United States, that he who runs may read. And now, on this side of the House, they were seized with *constitutional scruples*, and they think they have been violating their oaths in thus electing printers heretofore. Without proposing to cast reflections on any one, it appeared that they were practising on the old rule. That "*they should take who have the power, and they should keep who can.*" That was the rule.

Now, if a printer is an officer of the body, what makes him so? What argument had been used to prove him an officer of the body? He had heard but one. The argument of the Senator from Delaware: and which was proposed by some other gentlemen, and it appeared that to prove this, he had to go back to a period of the world, before the art of printing. 'If the art of printing had not been discovered, you would have had to employ a great number of amanuenses.' Would every copyist be an officer of the Senate? No. It would then be still more necessary than now to provide, by the preceding Congress, for the performence of the work, which then would have been much more laborious and expensive. And then, what do the gentlemen assert? That there is no power in this Government, by act of Congress, to provide a printer before the new Congress comes into existence. But is there any foundation for this argument? Is not the bare style and statement of the proposition sufficient to convince any candid and honest Senator of the United States? They had entered into a contract to keep the clock of the Senate going; and did the clock-maker become an officer of the body? No. The printing of the Senate was mechanical work, to be performed by men having skill in that art; and they might as well call any man who performed any duty whatever for the Senate, an officer, as to call the printer.

The joint resolution was conceived in wisdom. What was the case before? Congress met—printing was immediately required, and the Clerk authorized to employ the printer; but he was not prepared—delays took place; and in order to obviate this difficulty, the resolution was passed.

In his humble estimation, the principle which would be established by these proceedings involved tremendous consequences. Once establish the precedent that the Senate have a right to violate a solemn contract, deliberately entered into, and what becomes of this country? Does it not go immediately to the position, which had been attributed to his party, but which he had ever denied—that any legislative body have a right to annul contracts entered into.

The principle on which this resolution proceeded would, in his humble judgment, justify Gov. McNutt in the outrageous attempt which he is making to annul bonds of the State of Mississippi. It was the *principle* which lay at the root of it. Blair & Rives, by virtue of solemn contract, had a right to perform for two years this printing; and we come forward and nullify this vested right, and on the foundation that the election of Blair & Rives and the resolution violates the Constitution.

Again, they were told probably there might be a Bank of the United States chartered, or at least he believed an attempt would be made at the extra session. Would not our movements (he asked) be considered revolutionary if we refused to vote on this question, as the other party did on the question of printer, and then proclaim that the moment the democracy should be again triumphant we would repeal its charter, because we believed it to be unconstitutional? Did it not involve this principle—that because they believed a Bank of the United States to be a violation of the Constitution, were they not perfectly justified, if any precedent could justify them in acting in such a manner, in pursuing the same course, and declaring the act unconstitutional, and giving notice to the world that they would repeal it the very moment they had the power? And if they were to pursue this course, no Bank of the United States could be established. No capitalist, foreign or domestic, would advance his money, knowing that the charter would be taken away the very moment of a political change in power.

Suppose it be admitted that Blair and Rives are officers of the Senate. Would that admission help them in their argument in the slightest degree? Suppose they are officers of the Senate—cannot the Senate enter into contract with its own officers, which shall be binding on it? Suppose the law—the joint resolution of 1819, had declared, in specific terms, that the printers should be officers of the Senate. The resolution declares that they shall have the printing of the Senate through the whole Congress, and binds them to give bond and security to execute this service—could the Senate, by dismissing these officers, relieve themselves from the obligations of the contract? He replied, "no," and pledged every thing dear to him that if the plain, simple question, were submitted, without argument, to the tribunal below them, that it would so be decided; so that gentlemen did not gain their point by proving if they could that they were officers of the Senate. There was no *new* Senate. This was the same body, constitutionally, and in point of law, which had existed from the first day the Senate met in 1789 until the present moment.

For a great many years there was no election of officers at all. There was always a President, and the Secretary held his office; they could not get rid of him except for misdemeanor. This body was permanent. Every writer, without exception, who had treated on this subject, had described the Senate as a *permanent body*. There were always two-thirds of its members in existence, and generally far more than two-thirds. It was the sheet-anchor of the Constitution, on account of its permanency. The Senate was, and must be, a permanent body: and here they had the spectacle presented to them of the Senate, in all forms of law, two weeks ago, entering into election, and now, at this day, after the *officer*, as they called him, had been elected, of the Senate annulling the contract and dismissing the officer. If this could be done—if this body, of high and commanding influence in this country, could thus set aside its contracts—when there was too much disposition throughout the country to disregard the faith of solemn contracts—could step forward and sanction the principle that no contract can be binding on them—Heaven only knew what would be the result throughout the country. In point of propriety, there was no difference between the violation of this and any other contract.

Now it was said they were not bound by a contract, and now, at the eleventh time, they were not about to execute that which was the law of the land. The Senator from Mo., some time since had endeavored to get this resolution repealed. It was resisted with power by the Senator from South Carolina, Mr. Preston. He was against its repeal. This was the only mode of getting rid of it. But no repeal of it could affect the rights of Blair & Rives. The powers of the Government—of this Senate—no human power in this land could violate any contract without the consent of the parties injured by such a violation; and just as certain as they had a futurity before them, the day would come, if Blair & Rives were deprived of this contract, when it would be made good to them in damages—the day would come, and that very speedily, if it was in the power of Blair & Rives, to bring a suit against the Senate of the United States.

He had ever held, and trusted he ever should, that contracts were sacred, and however much he might desire, in any instance, to change the printing of the Senate, he trusted that his party feelings would never carry him so far as to trample on the rights of any individual. He was opposed to doing this execution on Blair & Rives.

Mr. BAYARD said in the course of this debate, objections to this proceeding had been placed on three grounds:

1st. That there was no power in this body, as now assembled, to go into such an election; or being assembled, that they were here assembled in a particular capacity—in the particular exercise of another function.

The next ground was that the printer is not an officer in this body.

And 3dly. If he be an officer, a contract has been made with him which they had not the power to rescind.

These were the principal grounds. The Senator from Pa., made an addition, in relation to the character of this body, which, it seemed to him to go the whole length of this subject. That this was a permanent body—the same Senate, which came into political existence on the 4th March, 1789—which has continued from that day to this, and would continue to all time as long as this Government shall endure, if the respective States perform their duty. The Senate being perpetual, has perpetual rights. What are they? They must be absolute or relative, and whether absolute, relative, or inherent, belong to the body at all times. There was no such classification of *Legislative* and Executive functions, as had been drawn. It was a body possessed of these rights; which might be dormant, but they always existed—always inhere in the body, and are to be exercised as the circumstances of the case may present.

A part of the *absolute* rights of this body, was—

1st. *To judge of the election, returns, and qualifications of its members.* There was no question but the body could do this, whenever assembled.

Another absolute right, was, *to decide by a majority, on any question*.

Another, *to make its own rules and regulations*.

Another, *to elect its own officers*—expressly given it by the Constitution.

All these have no relation, whatever, to any other department of Government; but are *inherent*, and *absolute*, which may be exercised whenever the Senate is convened. They could not assemble in the city of Philadelphia; or at any time they thought proper. But, whenever assembled, these were inherent, absolute rights which might be exercised beyond all controversy—beyond all dispute.

What other rights were there? There was the *relative* right, when a session of Congress takes place, of acting in a Legislative capacity. This session of Congress must occur once in the course of a year. If no other day be appointed by law, the Constitution says, the first Monday in December—but might it not occur in some other way? It might. And when they were assembled, then the *casus* occurred when they might exercise their legislative rights. When they were assembled in Congress did that prevent the exercise of their absolute, inherent rights? Might they not elect their officers? And turn out their members who misbehave themselves?

There were other relative rights. The Senate was commonly called a part of the treaty-making power and of the appointing power. These powers they held in connection with the President.

Another relative right inherent in the body, exercised when the proper call presents itself, whether they happened to be assembled in a session of Congress, or when the other House was not in session, and when of course there is no session of Congress, was the power of electing its officers.

It must then be apparent to every one that there can be no doubt that this Senate possesses the absolute, inherent right to elect its own officers when it happens to be assembled, without reference to any other case, when it may be called on to exercise its relative rights.

That being true, let us see whether or not the printer be an officer of the Senate.

The Senator from Ala. says that he is not an *officer*, but a *quasi* officer. He (Mr. B.) did not exactly understand this. He had heard of such a thing as *quasi* corporation—a body possessing some of the attributes of a corporation, but wanting others. But he had never heard before of *quasi* officers. They must be officers who have the name without *employment*.—Now, what is an officer? Webster, in his Dictionary—the best perhaps in the English language—has thus defined the word officer: "An *officer* is one who exercises an office of some kind." "*Office*," a particular duty, charge or trust conveyed by public authority, and for a public purpose; employment taken by commission from Government, and those who administer it." It might also be a duty or employment of a private nature.

Did any one undertake to say that the printer had no employment? If he had none, he agreed with the Senator from Alabama, that he was a *quasi* officer.—But if he had, he was one. He was trusted with the printing of all their documents—their confidential ones too. He thought the Senator from Pennsylvania would find some difficulty in saying that he was not an officer. His employment was very important; all the Journals and private proceedings were trusted to him. Yet the Senator from Pennsylvania said he was no officer. What does he do by means of types? What your Secretary does with his pen. He transcribes your documents and your Journal, and furnishes you with a requisite number of copies. Was not this public employment? How was he paid? Out of the contingent funds. And how appointed? Elected by the Senate; and yet the Senator from Pennsylvania says he is no officer; and the Senator from Alabama says a *quasi* officer.

That brought him to the last proposition, which is, *it is a contract*. If it was a contract, he should be the last man in the Senate to violate it. What sort of a contract was it? A contract which carried *in gremio* the principle of its own dissolution—a contract made with an officer who holds his office at will of the Senate. He should like to know whether the employment of any officer was not a contract? It belonged to this class of contracts—"after you have performed the work, I will pay you." There was the contract; and in accepting an office, which is itself an office at will, the person accepted it with this consideration—that he could be removed at any moment. It was a parliamentary office: and all such were *at will*. No principle was better understood than that all parliamentary officers are *at will*. All were at will. The Speaker of the House of Representatives was at will—they might remove him. Did not our Collectors, District Attorneys, and Marshals, hold their office for a period of years, and yet with a defeasible condition?

And what difference did the bond make? Did not their clerk give bond? And yet was he not removable? This was the effect and operation of the bond—simply, inasmuch as they were charged with a very important duty, *that they perform the duty with fidelity* as long as they remain in office. That was all. There was the limitation of it. It was in the nature of things—that if an officer holds his office at will, the same condition goes with the contract. He takes it, subject to the necessary restriction. What, then, was the contract? We will employ you so long as agreeable for us, and pay you at a certain rate. And what did the other party say? I will do it at this rate—subject to your wish or refusal. There was the contract, and the whole contract.

The honorable Senator said, this was a most extraordinary proceeding. He thought not They had full warning in relation to this matter. Did we not tell them (continued Mr. B.) then, they were doing what they had no right to do, and the moment we had the power, we should correct it. Did they suppose, we would suffer a mere partisan to be chosen, and thrown on us, for whom we were going to provide the means of support. We undertook to show at the time that there was no right to elect in this manner.—They would do it, when they had but five or six days to remain in power. We gave them full warning that we should dismiss their officers who hold their office at will. It was an exercise *of mere power*, and we should submit no longer than we were compelled to.—It was an abuse of power. Was it to execute the current work of the day that he was appointed? By the terms of that resolution it was a *prospective* appointment—it was undertaking to give them a printer for the 27th Congress—to anticipate this matter, and so for two years to come, we should be compelled thus to support a mere partisan editor; a paper that had been extremely wanton in its course, dealing in a foul species of detraction, both as to individuals and characters and members of the party.

It was an abuse of power on their part; and the party now in power would use it in correcting this, at least, so far as his vote went.

Mr. BENTON offered the following amendment to the resolution:

Resolved, That Blair & Rives having been duly elected printers to the Senate, during the late session of Congress, under the joint resolution of the two Houses, providing for the election of printers in Congress, and the Senate having acted with open doors and in its legislative character, in making the election, it is not now competent for the Senate acting alone in its executive character, to annul the election, and thereby divest the rights which Blair & Rives may have acquired from that election, and the contract resulting from it.

Mr. BUCHANAN would say a few words in reply to the Senator from Delaware. The Senator said that the printers were officers. He should not now enter into that argument; he thought he had shown conclusively, that the printer was not an officer. He said he was just like the Collector of Customs in New York, or the Secretary of the Senate here. He asked the Senator from Delaware one simple question: Has not the Senate, if they please, a right to make a contract with a mechanic, be he *officer* or *not officer*, to endure for two years? And if they have a right to enter into contract of this kind, have they any right to nullify it, by declaring that the officer shall continue no longer in office?

Mr. BAYARD said: Unquestionably, the Senate might enter into a contract; but all the terms of the contract must be considered. Part of the terms of this contract was, that it was defeasible in its own nature. But if the office be held at will, the ingredient was incorporated into the contract itself, and therefore it was defeasible at any time.

Mr. BUCHANAN continued. This was just as he understood from the Senator. This Senate had a right to enter into a contract to do the necessary work for the Senate for two years. And although they did it solemnly, and promised that they would employ a man for two years, they had a right to deviate from the contract the next day, *because the office was defeasible*.

That was the position; and if any Senator, however ingenious he might be, could define such a contract, he would give him praise for his skill in reasoning. The terms of the joint resolution were as precisely fixed as if each member of the Senate had entered into a contract with this printer: "You shall do the work for two years; and if you do not do the work according to contract, we give to our Secretary power to have the work done by some other person, and charge you the difference between the contract price, and the price paid for doing the work."

The English language could not make a more binding contract than that. The resolution was passed in 1819, and if it be the same case as with an officer of the body attending to employments in this chamber, or as the Sergeant-at-arms for the purpose of keeping order in this Hall, he was quite at a loss to understand its nature and character—a resolution directing the manner in which the printing of Congress shall be executed, and fixing the prices, the precise items, and the pay. The concluding clause was, "Each House shall proceed to ballot for a printer to execute"—the duties of an *officer*? No. The word "officer" was not mentioned in this resolution; but "to execute *its work*;" and how long? "During the next Congress." The printer, then, was employed to execute the duties of the 27th Congress—not the duties of any office whatever. And *that* was the very reason of the adoption of the resolution; if it was not for this, no man could ever be elected printer for either House except Gales & Seaton, or Blair & Rives. It was absolutely necessary, in order to prevent a monopoly—to enable the mechanic to have his materials here. And let the printer now, bring him from New York, Philadelphia, Baltimore, or Richmond,—let him set up an establishment for the purpose, and the first day of the session after, dismiss him. Say, as the Senator from Delaware does—"you took this contract under the implied condition that we could turn you out whenever we pleased." No, sir; in order to promote a competition between all printers, this joint resolution was passed; and an absolute contract was to be made for two years, which the Senate has no right to violate; it did not refer to an office at all, but placed the thing on its proper ground, and the party having the greatest number of votes is elected, and shall give bond for the prompt, accurate, and neat execution of the work: and in case any unjustifiable delay should be experienced, the Secretary is authorized to employ another, and take the extra charge paid from the salary of the printer. Would the printer casually employed be an officer?

Throwing aside all the ingenuity of the arguments used on the other side, was not this the very case. I have entered into a contract with a man to build me a house, provided that it be done in two years. I take bond and security in a proper manner for its performance. And if he does not do it properly I may employ another, and charge him the difference, and I am to pay him a certain stipulated price, when completed." I then turn about and say I reserved, in my own mind, the power of annulling this contract and, as above law, I annul this contract, and you shall not recover any thing from me for it.

They had neither the moral nor the constitutional right to violate this contract, and if done, Blair & Rives, some day or other, before some tribunal, would recover a full indemnity for all losses sustained.

Mr. CLAY, of Kentucky, said, when the appointment of Blair and Rives took place, about ten or twelve days ago, on his side of the House they considered it one of the most extraordinary instances of the exercise of high-handed power which they had witnessed from the other side during the present session of Congress.

It was admitted then—avowed then *to be an act of power—pure, naked, unqualified power*. On that occasion they had given notice to gentlemen on the other side of the House—to the world, and to the Printers, that if they did go into an election, under the existing circumstances, they should, at the earliest period possible, endeavor to correct the procedure by dismission of them from office. And on the 4th March, the year of our Lord 1841—the very day when these printers' contract commenced operation, his friend (Mr. MANGUM) who sat near him offered the resolution, according to the form of which these men were to be dismissed from office, if it was carried.

He considered it one of the *most extraordinary instances of the exercise of high-handed power*. What was done? An attempt by a defeated party to continue their power and appointments beyond the official term of existence of their power. An attempt to throw their cast-off clothes on us. And what sort of soiled clothes were they? Such that if his servant Charles had come into his presence with them, he would have driven and expelled him for that indignity.

The case of Rives was mentioned, and their sympathies were endeavored to be excited in behalf of *poor* Mr. Rives. If Senators would pardon him, he would describe his case by telling an anecdote: A notorious felon by the name of Tom Moore, who at last got caught in jail in England, after having for a long time carried on a system of villainy, had instructed a jackdaw to pronounce a few broken sentences.

Tom amused himself by playing cards, and continued his schemes while in prison. The jackdaw was looking at him, and strictly observed him when he was cheating those with whom he played. The jackdaw would cry out, "damn it, how he nicks them."

Well, Tom was executed. The jackdaw, by some means, however, escaped. He got into company with his own description of birds. They light on a farmer's barn, and commenced havoc on his grain within. The farmer closed the door upon them. As soon as he had done it, Tom Moore's jackdaw flew up on a beam,—while the rest of them had their necks torn off, Tom Moore's jackdaw cried out, "damn it, how he nicks them."

The farmer at last noticed him, and says, "pray, sir, how came you here?" "*Bad company brought me here.*"

Now, so with poor Mr. Rives. It was *bad company* that would occasion him to be dismissed along with Mr. Blair.

A little of the circumstances of this case. A resolution was passed in 1819 by which the two Houses agreed each to appoint its own printer—to do what the Constitution authorized them to do. This continued in full force till 1829. A *majority* was then required to consummate the election. This continued in force, or at least continued to be respected—unnecessary in its origin, perhaps unconstitutional; for the act of electing printer was not an act of the two Houses, but of each House. As far back as 1834 or '35 the House had disregarded this resolution. They have thrown the election of a printer, at the opposite end of the session, at the commencement; and the House had adjourned now without electing printer.

This was not the whole. The House had not only not considered itself bound by the resolution, which they were told was the law of the case, but the House had gone on to vary the terms of the printing. And, by a resolution adopted at last session, the terms of the act of 1829 were entirely varied and considerably reduced. The House, therefore, was not bound by the resolution, either as to the time or the terms; and if they were not bound, on what principle could it be said that the Senate was to be bound to a contract between both—a reciprocal obligation? And if either party—if the House is not bound, neither was the Senate bound. Neither were bound, because the Constitution gave to the Senate, irrespective of the other branch of Congress, the power to choose its own officers.

The Hon. Senator from Pennsylvania had regarded this as a contract—a binding, obligatory contract, to the execution of which your honor, good faith, fair dealing were all pledged. How did he make it out? The argument of the Senator from Delaware, he (Mr. C.) thought, must conclusively satisfy every one that there was no contract in the case. What was the fact? This Editor had stalked about this Hall; taking the liberty of this Hall, on the express ground that he was *an officer*, for he could not have got admission on any other ground; but, being regarded as an officer by the Vice President who had recently vacated his seat, he had walked about with all the freedom and consequence of any other person entitled to the floor.

As to calling this a contract, the Senators on the other side, had said that the resolution expressed the terms, the fees, and the compensation, &c. to be received by the public printer. Was not this the case with every officer?

Mr. BUCHANAN said the *time* was not expressed.

Mr. CLAY continued. Let me put a question to the Hon. Senator. Suppose the party, when they had the power, had chosen to elect a printer for ten years. They had the power to do it, so as to disable the Senate afterwards from disconnecting itself from a putrified mass, which should be attempted to be lashed to their bodies and borne by them the whole time. Or, suppose instead of this, they had made a contract for life. In all the cases he had cited, of an Attorney, Marshal, or any other officer, the duties were stated particularly as in the resolution of 1819—the fees were provided, &c. &c. But all these officers held their office subject to the will of the appointing power. What does this contract amount to? A contract to fulfil the duties while they remain in the employment of the Senate.

That they were officers, he thought had been proved by the resolution of 1819. There was an election. Who succeeds? The one having a majority—voted by ballot. How declared? In the usual mode. The whole ceremony was precisely like that when they proceeded this morning to the election of a Sergeant-at-Arms. If the election, by ballot, of a person for the performance of a high official duty, did not create office, and if the person discharging these duties was not an officer, he should like to have the Senator from Pennsylvania, or any of his friends, favor them with the definition of an officer. The case was the common case of any officer.

They had been reminded of a passage from the Inaugural Speech, delivered the other day, and which he desired the gentleman would study and profit by, in all its parts.

They were reproached with violating some of the principles of the party now coming into power, which they professed when out of power. How? (he asked.) Did gentlemen on the other side imagine that they were going to *consummate* the triumph of proscription.—They protested against proscription when the late Administration were carrying it on with such a high hand through this nation; when they were sweeping out every body, without regard to merit, services or capability, and introducing persons often of inferior merit. Was it possible that persons on the other side could lay the flattering unction to their souls, that all these persons were to be continued in office, because, when the process of proscription was going on, they protested against it? Why, sir, continued Mr. C., if they were to be continued in office, it would be the *triumph of proscription*. He knew not the rules that would be adopted in Harrison's administration, but trusted that none but those who were incapable, dishonest, faithless to the Constitution, or had improperly intermeddled with the elections of the country, would be removed from office.

That was his principle. But from the symptoms manifested at this day, honorable gentlemen seemed disposed to put themselves in opposition to this act of the Senate. Did gentlemen think that they could, by this course, interest the sympathies of this country with such a being as Francis P. Blair? Let them attach themselves to him and go out uttering their arguments with him—proclaiming the injustice which had been done this *poor person*—but all he pressed was not to attach the Harrison party to him. If there was no other ground of proscription, he would proceed on the infamy of character of the print and printer. That was the ground he would go on. He wished to be allowed to say that, the other day when the late President of the United States, and the present, were exchanging official courtesies with each other—a spectacle with which every *manly* man must have been highly gratified—that very day was selected by this Globe, (as a foreign minister remarked to him, for he scarcely ever saw the dirty sheet)—that very day was selected by this man, whom the gentlemen would force on them against their will, for a tirade of abuse and scurrility against the actual President in power. If they regarded the character of the country at home or abroad they ought to be dismissed.—And there was scarcely any circumstance at home or abroad that had done their party more injury than the services of such a press as the official organ. On the ground of the character of the man and his paper, they ought to consummate the purity of their national character, by ridding themselves of him. The notoriously bad character, both of the paper and printer, would justify the action of the Senate in dismissing them, and no longer to give them the execution of the official work, either of the Senate or Government—the whole Government or any part of it. What injury had been done to them? They were printers of the Senate to the 3d March—they executed all the duties up to that time. They were notified that they would be dismissed if thus elected. What injury could be done to them? As to their bond, he hoped, if necessary, an order would be made to return their bond to them.

It was nothing but a naked trial to prolong their power after the expiration of their power, and force on the present Administration unwelcome printers, which, they were notified at the time, they should attempt to dismiss at the very first moment, when they possessed force enough to dismiss them. The time had come, and he hoped that they would avail themselves of it and get rid of these men.

Mr. WALKER briefly opposed the resolution.

Mr. HUNTINGTON next took the floor; and on motion by that gentleman the Senate adjourned.

TUESDAY, March 9, 1841.

The resolution relative to the dismissal of the public printers was discussed by Messrs. HUNTINGTON, KING, HENDERSON, and SMITH, of Connecticut.

The amendment offered by Mr. BENTON, after being slightly modified by Mr. KING was rejected, Yeas 18, Nays 25.

The question then, recurring on the original resolution, was farther debated by Messrs. CALHOUN, HENDERSON, KING, CLAY, of Ky., SMITH, of Ct., and PRESTON; and then, on motion of Mr. WRIGHT, the Senate adjourned.

WEDNESDAY, March 10, 1841.

Mr. WRIGHT, at some length, opposed the resolution.

He was followed by Mr. MANGUM in its support. The debate was continued by Messrs. SEVIER, WALKER, WOODBURY, BAYARD (in explanation); and, without taking the question, the Senate went into an Executive session.

THURSDAY, March 11, 1841.

The Senate convened at 12 o'clock.

The PRESIDENT, Hon. JOHN TYLER gave notice to the Senate that he would to-day vacate his chair, and give the Senate an opportunity to elect a President pro tempore.

The question before the Senate being the adoption of the resolution for the dismissal of the public printers,

Mr. BERRIEN addressed the Senate in support of the resolution.

The resolution affirmed two things:

1st. That the Senate had the power to do the act.

2d. That there was a *cause* for doing it.

Into the proof of these two propositions he entered, and dwelt at length, showing conclusively their validity.

Mr. BENTON succeeded in opposition to the resolution.

The yeas and nays were then about being taken, when

Mr. CLAY, of Ky., said that many Senators were absent, being necessarily occupied in preparation for their departure for their homes; and that it should not be taken without some little notice to the absentees, as they had some business in Executive session to transact, he would move that the Senate go into Executive session, and at 3 o'clock the question be taken.

Most of the Senators now appearing in their seats Mr. C. waived the motion, and the yeas and nays were taken, as follows:

YEAS—Messrs. Archer, Barrow, Bates, Bayard, Berrien, Choate, Clay, of Ky., Clayton, Dixon, Evans, Henderson, Huntington, Kerr, Mangum, Merrick, Miller, Morehead, Porter, Preston, Rives, Simmons, Smith, of Ind., Southard, Tallmadge, White, and Woodbridge—26.

NAYS—Messrs. Allen, Benton, Buchanan, Calhoun, Clay, of Ala., Cuthbert, Fulton, King, Linn, McRoberts, Nicholson, Sevier, Smith, of Conn., Sturgeon, Tappan, Walker, Williams, and Woodbury—18.

Thus the resolution was adopted.

Mr. CLAY, of Kentucky, moved the following order:

Ordered, That the official bonds taken from Blair & Rives as printers of the Senate for the 27th Congress be delivered to them by the Secretary of the Senate.

On this Mr. BENTON called the yeas and nays; which were ordered, and the motion carried, (by a precisely similar vote to that on the above question.) Yeas 26, Nays 18.

The PRESIDENT then, pursuant to the notice given in the morning, begged leave to withdraw from the Chair; and accordingly retired.

On motion of Mr. CLAY, of Ky., the Senate then proceeded to ballot for a President pro tem.

On the canvass of the votes, it appeared that forty-three votes had been cast; twenty-two of which were necessary for an election.

Mr. KING received	-	-	15 votes.
Mr. SOUTHARD	-	-	26 "
Mr. PRESTON	-	-	1 "
Mr. CALHOUN	-	-	1 "

Mr. SOUTHARD having received twenty-six votes was declared elected, and took the chair.

He then addressed the Senate nearly as follows:

SENATORS: A custom prevalent from the day of the establishment of this Government requires my acknowledgments of your kindness and respect. But a feeling stronger than the custom demands this at my hands.

Five years successively I have been a member of this body; and associated in the obligations of this office, in the conflicts of opinion, in the strifes of debate, my conduct must be intimately known to all. Under such circumstances, I must be far less sensitive than I feel myself to be, of the estimate my associates may form, if I could receive this proof of your kindly regard, without sensibility and grateful feelings.

You have imposed on me duties for which you may find that I am incompetent. Forms I have not studied—rules of order I have examined only to enable myself to keep within their limits. Of experience and practice in the situation I am elected to I have none. But perhaps my ability to learn something on this subject may find a partial apology, at least, in the order and decorum of the proceedings of this body. The skill and intelligence which has heretofore been called to preside over its deliberations, and the feelings of respect for the dignity of which, each member has his full share, have left to individuals very little desire to permit themselves to contravene the rules. I seek then, in the kindness and candor of the body, some apology for the points where you may find me incompetent.

In entering on the duties of the chair which I am to hold but for a very short period, I can make no promises, and give no pledges as to the manner in which I may discharge its duties. It is not hard to understand them, though it may be difficult to practice them. A close investigation of all the rules of order and the modes of proceeding, whether Legislative, Executive, or Judicial—a close attention to every thing which calls for the deliberation of judgment, and at times promptness of decision, and a firmness which must not permit itself to deviate from the uniformity of rule—but above and beyond all these an unwavering and unsleeping impartiality towards each and every member of the body—these all, are highly requisite.

A failure in the former may be overlooked; there is no mantle large enough to cover a departure from the last. If I should fail in knowledge of the rules, and in the ordinary discharge of the duties, I know that I have a refuge in the noble kindness and liberality of generous men; if I fail in the latter, you are not to extend that charity which 'suffers long and covers much.'

I will not detain you by speaking of the importance of the deliberations of this body. It would be worse than superfluous. There is no act, however unimportant and uninfluential it may appear at the moment, which is transacted in this body, that does not operate on the great and permanent interests of a mighty nation, and which will not be made of some moment in its influence on the basis and prosperity of those free institutions which secure liberty to man.

Let us, then, each look to it in his proper position, that with regard to him his hands be pure, and his conscience clean, where the great interests of our common country are concerned.

On motion of Mr. PRESTON, the Senate then went into an Executive session.

Died,

In this city, on Friday last, Mr. ELISHA DUNHAM, of South Lee, Mass., aged about 70.

Drawn Numbers of the Union Lottery, No. 1, draw 6th March, 1841.

D. S. GREGORY & CO. Managers.

31 74 68 5 29 67 37 41 8 16 62 64 42 75

Whole ticket No. 5 68 74 entitled to the prize of $8,000, and whole ticket No. 37 41 67 entitled to a prize of $4,000, in the above Lottery was sold at the office of the Managers, Washington City; the latter in a certificate of a package.

BRILLIANT SCHEME.

$60,000 $30,000 $15,000

And Sixteen Drawn Ballots, making more prizes than blanks.

UNION LOTTERY,

Class No. 2, for 1841.

To be positively drawn at Alexandria, D. C., on Saturday, April 17th, 1841.

By authority of law, for Internal Improvement in Alexandria, D. C. State Treasury, Delaware College, and Common Schools, in the State of Delaware. Useful Manufactures in the State of South Carolina. Green and Pulaski Monument in the City of Savannah, and State of Georgia. Public Institutions in the States of Louisiana and Kentucky.

D. S. GREGORY & CO. Managers.

GRAND PRIZES.

1 prize of	$60,000	4 prizes of		$2,000
1 do	30,000	5	do	1,750
1 do	15,000	10	do	1,500
1 do	10,000	10	do	1,250
1 do	8,000	50	do	1,000
1 do	7,000	50	do	500
1 do	6,000	50	do	400
1 do	5,000	100	do	300
1 do	4,000	100	do	250
1 do	2,500	170	do	200
1 do	2,311	124	do	150

124 prizes of $100.

Besides prizes of $80, $70, $60, $50, $40, $35, $30, $15, $12, $10.

16 Drawn Numbers out of 78.

Whole Tickets $20—Halves $10—Quarters $5—Eighths $2 50.

Certificates of Packages of 26 Whole Tickets				$260 00
Do.	do	26 Half	do	130 00
Do.	do	26 Quarter	do	65 00
Do.	do	26 Eighths	do	32 50

☞Orders for tickets and Shares or Certificates of Packages in the above Magnificent Lottery will receive the most prompt attention, and an official account of the drawing sent immediately after it is over to all who order from us.

D. S. GREGORY & CO. Managers,
Washington, D. C.

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