

C O N G R E S S .
HOUSE OF REPRESENTATIVES
DEBATE ON THE REPORT OF THE COMMITTEE
OF PRIVILEGES.

FRIDAY—FEBRUARY 9.
(Continued from yesterday's Gazette.)

The question on the resolution as amended was about to be put; when

Mr. GALLATIN said, he knew how late in the day it was, and therefore his remarks should not be long; but, as he considered there was a point of view in which the subject had not been placed, he wished to say a few words before the question was taken.

On the fact itself, he had no remark to make; the evidence was direct, and all could draw their inferences from it. Nor did he consider it very material, whether the insult arose from provocation, or not, because he did not think that any provocation could justify an indecency of that nature. But it appeared to him that gentlemen who expressed so much sensibility on the occasion, had confined themselves wholly to the indecency committed within the walls of the house, without taking any notice of the nature of the punishment proposed to be inflicted. It was on that part of the subject, and on that alone, he meant to make some observations.

Our government, he said, was a government by representation. The people of the United States had not vested power with a sparing hand; they had given all power out of their hands, but they had guarded against the abuse of it. They had said, this power shall not be exercised but by persons appointed by ourselves. This being the case, said Mr. G., we, the representatives of the people, have only a limited power over individual representatives in our body. It is true, the Constitution has given us the power of expulsion, but under as much caution as power could be given. It is guarded by making it necessary to have a vote of two-thirds of the members present—the same caution which was laid upon the Senate with respect to treaties. He conceived that the power of expulsion had not been given for the purpose of indulging our sensibility; for the purpose of impairing the principle of representation, but for the purpose of enforcing that principle; and two cases might exist in which the power of expulsion lodged in that house might be considered as a safeguard to the principle of representation.—These two cases were, when the house discovered a person to be disqualified by some infamous conduct from voting, and when a member pertinaciously interrupted and prevented public business from being carried on.

As to the first case, he could not suppose that any man would ever be sent to that house, who had been guilty of any crime that would disqualify him from holding his seat, if the people who sent him knew it at the time; but if any such crime should be afterwards committed, or be discovered to have been heretofore committed, then the house has a right to expel and send such a member back to his constituents. The present case, every one will allow, does not come within this rule. The charge against the member from Vermont, is a gross indecency, which shews the want of good manners—a want of good breeding. There could be no doubt the act was highly indecent; but it did not shew a corruption of heart. It may disqualify him from associating with some gentlemen on this floor; but said Mr. G., we do not come here to associate as individuals, but to deliberate upon legislative subjects in our representative capacity. We may, if we please, associate together, or we may let it alone. He did not think himself compelled to associate with any member of this house whose society he did not like.

This was not then one of those cases which discovered a corruption of heart, that would disqualify a man from giving a vote on a legislative subject, though it might shew the person to be disqualified for polite society.

He would go on to the other case, which was said to be a good reason for expulsion. He allowed that cases might exist, in which a man might so far persist in interrupting the public business of that house, by his disorderly behavior, as to render it necessary, in order that the business might proceed, that he should be expelled. This led him to enquire whether this was the case under consideration, and whether the house had been interrupted by the act in question.

When he put questions to the witnesses in relation to the order of the house, at the time the act complained of took place, he did it not with a view of lessening the offence itself. He did not mean to enquire whether the member from Vermont had committed a less degree of indecency, because the house was in one situation than it would have been if it had been in another; but his object was to shew, that the public business had not been interrupted, and that the house was in a situation in which it could not have been interrupted. It was true the speaker had, in the morning, taken the chair, and the house had not adjourned; but it must also be allowed, that the house was not at that time organized. What was the business before the house? A committee of two members were counting the votes for managers of an impeachment. Were they interrupted; or could they be interrupted by an incident of this kind? He was sure they were not interrupted. If then the public business was not interrupted, and if the fact was not of that nature which shewed a corruption of heart, he did not think it would be proper to expel the member from Vermont.

He saw, indeed, that it was unpleasant for some gentlemen to sit in the house with the member from Vermont. He allowed it was an evil; but what is the evil, he asked, on the other side? It is this—They all knew that a new election could not take place in the state of Vermont for several weeks. He remembered, from the con-

tested election which was formerly before the house from that state, that twelve days notice is requisite before writs can be issued; a certain time would be required to bring the votes to the governor; the necessary notice, a new election, ascertaining the return, the notification to the member elected, and the time necessary for his journey hither, would take up many weeks; and by the laws of that state, if there be not a majority in the first vote, a new election will be necessary; so that it may be pretty certainly said, that if the present member was expelled, one half of the state of Vermont would be deprived of a representation on that floor for the remainder of the session. And shall we, said Mr. G., in order to gratify our sensibilities, deprive one half of that state, for a number of weeks, and perhaps for the whole session, of its representation? He was not willing to do so, and therefore should vote against the resolution.

He knew that other gentlemen on that floor had as great regard for the principle of representation as he; therefore, he supposed, they had considered this subject already, and made up their minds upon it. When he started these reasons he did not doubt they had had weight upon the minds of other gentlemen. For his part, however, he was more apprehensive of depriving Vermont of its representation, than of any other consideration arising from the subject.

He thought gentlemen had laid too much stress on this indecency, as it affected the legislature of the United States. However disagreeable the act was in itself, he did not think because a member sent there by the people of Vermont does an improper act, that it could attach disgrace and indelible infamy to the house itself, nor did he see how it could affect any other person besides the member from Vermont himself.

Two members rising, though the question was loudly called for, the committee rose, by a small majority, and had leave to sit again.

MONDAY—FEBRUARY 12.

The House having resolved itself into a Committee of the Whole, on the Report of the Committee of Privileges, Mr. DENT in the Chair.

Mr. RUTLEDGE denied that any similar outrage had ever been committed in that house like the present, though the gentleman from Virginia had spoken of something analogous. It was true a challenge had been sent by a member of the Senate to a member of that house; but this was not at all comparable to the present offence. Mr. R. thought the punishment by expulsion, was the only punishment which could be adopted, as nothing short of it would be effectual.

Mr. FINDLEY said, the question before the committee was a question of indecency, and not of crime; and he wished, for the sake of decency, so much had not been said upon it. In forming the Constitution there had been a distinction made between punishment and expulsion. Expulsion was evidently the highest punishment which the house could inflict, but no one could say indecency was the highest crime. He never understood, either at the time the Constitution was formed, or since, that expulsion was intended to be applied to any thing but crimes—for what would be a subject of impeachment in other bodies, where impeachments could be brought. This was not, therefore, an opinion formed upon the spur of the occasion. Mr. F. said, he knew of an instance of this kind which happened in another legislative body, upon which a committee was appointed to consider it, but they never made report, but held their decision in *terrorem* over the offending member. He thought, if a similar course had been taken in this matter, it would have been preferable to spending so much time in debate upon it.

Mr. SEWALL rose to reply to what fell from Mr. Gallatin on Friday, with respect to the two cases which he pointed out, as coming under the rule for expulsion, and referred to the law of Parliament in England. He said no district of country ought to have it in its power to send a man amongst them as a legislator for the United States, who should be hateful to two thirds of the house. The Constitution had defined no particular cases in which the power of expulsion should be exercised; the house was therefore left at liberty to use it according to its discretion; and if it were to be abused, instead of punishment it might become the highest honour to the person expelled, as if the house were become so corrupt as to expel a person without just cause, it might awaken the people to a sense of the necessity of changing their representatives.—Mr. S. said, it was a new doctrine that the business of the house should actually be interrupted, before a person should be deemed an offender against its rules. It was necessary to look at the consequences of actions, and referred to what might have been the case if Mr. Griswold had refused the affront upon the spot. Mr. S. spoke of the importance of this decision as a precedent; and of the danger to be apprehended from the conduct of Mr. Lyon in future, if the present outrage was suffered to pass without exemplary punishment, and that it would be necessary to come armed to the house in order to guard themselves against him.

Mr. SHEPARD spoke again upon this subject. If the member from Vermont was not expelled, he supposed it would break up the present session, without doing any business; that it would divide the states against each other, and finally end in a civil war.

Mr. PINCKNEY said, in order to insure perfect freedom of debate, it was necessary to repress every personal violence in the first instance. In considering this question he considered it as fixing a rule for their government in future, and he thought if it were so considered, (and no reference had to

the dispute which had produced the discussion) there would be a pretty unanimous opinion that an offence of this kind ought to be punished by expulsion. He thought a member thus violently offending the rules of the house, should be immediately deprived of the power of the people in that house, and it was on this ground that he moved for the immediate commitment of the member from Vermont to the care of the sergeant at arms, when the offence was first made known to the house, not only for the security of his person, but for immediate punishment. As the constitution gave the house a power to expel a member for disorderly conduct he thought this case came clearly within the rule. In some cases of offence, there might appear mitigating circumstances, but there was none in this. The conduct of the member since the transaction was committed had been such as to convince the house that he felt no compunction for what he had done.

Mr. LIVINGSTON rose to intreat gentlemen, as they valued the respectability of the House, the good opinion of their constituents, and the public Treasury, that they would suffer this business to come to a conclusion. Their constituents, he was certain, had long been tired of the discussion. Nearly 20 days, which had cost as many thousand dollars to the country, had been consumed in this business. Gentlemen rose to express their abhorrence of abuse, in *abusive terms*, and their hatred of indecent acts with indecency. The simple question before the house was, what degree of punishment was proper to be inflicted upon the member from Vermont. [The Chairman informed Mr. L. he was mistaken in saying 20 days had been consumed in this business; it had been before the house only fourteen.] Mr. L. said it was in a fair way for being twenty.

Mr. COIT was sorry to hurt the feelings of the gentleman last up, by saying any thing on this subject, but having been considered as an advocate of Mr. Lyon, he would make a few observations upon the subject. He did not himself think that this vote ought to have been taken without discussion. If, indeed, it had been necessary to have enquired how does this man generally vote, then no discussion was necessary; but he could not consider that this was the only enquiry necessary to be made. With respect to the fact, nothing need be said, every one allowed it to be brutal, indecent and unmanly. The constitution gave the house the power of expulsion for disorderly conduct. It had been said, this disorder must be committed within the house; but he found nothing of this sort in the constitution. He had no doubt himself that the House was in session at the time. It had been attempted to shew that there was a provocation for the offence; but an enquiry into this matter turned wholly against the gentleman from Vermont, as his previous abuse of the whole representation of Connecticut was a sufficient ground for the retort which was drawn from his colleague. It appeared, therefore, to him, that to retain amongst them a man of this description, was to retain a man who would produce nothing but disorder and confusion in their proceedings. His letter of apology did not say that this was a transaction of heat, and that he was sorry for it, but that he was sorry the house had thought it necessary to take cognizance of it; and his defence before the committee of the whole, was far from being contrite; it was, indeed, an attack upon the witnesses, in order to invalidate their testimony. He hoped the resolution would be agreed to.

Mr. R. WILLIAMS rose and took notice of the different arguments urged in favour of the amendment. He denied that the committee ought to consider the consequences to which an act might possibly lead; if so, an assault would, of course, be punished equally with murder, as it might possibly lead to it. He did not think the house ought to interfere any further, than to preserve order and decorum in its proceedings. If a member of the house committed a crime, he was answerable to the laws equally with any other man. Upon the whole, he considered the proposed punishment as disproportionate to the offence, and should, therefore move an amendment. [He then moved the amendment stated in yesterday's minute, confining the punishment to a reprimand by the Speaker in the face of the house.]

Mr. DAYTON (the Speaker) said the length of the present debate had been complained of; but who, he asked, had first broke silence after the gentleman from Massachusetts (Mr. Thatcher) had expressed his wish that the vote might be taken without debate? It was the gentleman just sat down; and now he had given the committee another speech, and introduced a proposition calculated to produce further discussion. He wished the gentleman from Vermont to be reprimanded by the Speaker. What could the Speaker say to him? He could only say, "You have done an act which would disgrace a blackguard, come and take your seat in the house; you have insulted us with words which shew your defiance of us, but come and sit with us, and be our brother Legislator."

Were these proper words to be addressed to the member? The Speaker would sooner address him in words of *Thunder* which should drive him from his presence. Mr. D. then took notice of what fell from the gentleman from New-York with respect to the length of the present debate, which he thought fully justified by the importance of the subject, and concluded by saying, that if there should be found a majority in this house in favour of the amendment, he should be ashamed of having a seat in it.

Mr. NICHOLAS hoped the committee would not be prevented from doing what it thought proper, because there might be a difference between the private opinion of the Speaker, and what he might be called upon to do in his capacity as Speaker.

Mr. R. WILLIAMS denied that he was the first who began the debate.

Mr. DAYTON repeated that he was the first who broke silence after the gentleman

from Massachusetts had wished the vote to be taken without debate.

Mr. R. WILLIAMS said, that it would appear from the manner in which the gentleman had said he broke the silence, that he had begun the debate, which he did not. Mr. W. said he was now more strongly convinced than ever of the impropriety of extending the power of expulsion, since he had heard the passionate expressions of the gentleman from New-Jersey. Was this the language of a *Judge*? He would not only pass the law upon the offender, but he would do it with thunder and vengeance. In his opinion, Mr. W. said, nothing would tend more to disgrace the councils of America than such heated language as this. It was sufficient to induce the People to say, "we have too much liberty—too much freedom of speech—our government is bad," and to be ready to lay hold of any other that is offered to them. A sentiment of this kind tended more to destroy the government than any thing he had heard. Gentlemen talk of heat in debate; but where did it come from? Not from the gentlemen in opinion with him; must be evident to every one. Whatever opinion might be held of his amendment, he thought it proper, and therefore made it; nor did he think it liberal in any man to treat it as it had been treated. Was it right to be told by a member, because he moved an amendment like the present, that he should be ashamed to sit with him? Was this what the public expected to hear in its legislative councils? He believed not. He thought it would do no credit to him who uttered the sentiment.

Mr. DAYTON said that the gentleman from N. Carolina had mis-stated what he had said in several instances; but he did not think it worth while to set him right—it would be a waste of time and words. There was one thing he would notice, he called him a *Judge*. Was he not in committee of the whole on this subject? Was he more a judge than that gentleman? [Mr. W. offered to explain.] Mr. D. said the gentleman had already four times explained himself. If he had any thing more to say to that gentleman, it would be a little more pointed. He should say what he pleased, and if he chose he might call upon him in the house or out of the house (privileges a side) [A loud cry for order was heard.] Mr. D. said he knew when he was in order.

The CHAIRMAN declared such language improper.

Mr. D. concluded by justifying what he had said as to the impropriety of the Speaker's reprimanding the member from Vermont, as the language of a majority he was assured would direct him thus to speak, and he could not be expected to use the sentiments of a minority in his reprimand. He had stated the matter in a strong light, to shew the impropriety of the measure; and he meant to appeal to the breast of every honorable gentleman whether the members of that house would consent to sit in smity with such a man.

Mr. GOODRICH thought to have given a silent vote on this subject; but when a proposition like the present was brought forward he could not refrain from delivering his sentiments upon it. Mr. G. complained of the slanderous manner in which he and his colleagues had been treated by the gentleman from Vermont. Every one allowed some punishment was proper for the offences of this member; they differed only as to the proportion. For his part, he thought nothing short of expulsion would be sufficient; for it was evident from his conduct, that a reprimand would not be considered by him as any punishment at all. He knew not how to account for the strange manner in which he had conducted himself since he committed the insult upon his colleague; except, indeed he was persuaded, that what he will, it was not in the power of the house to expel him; that his friends would support him. If this were his opinion, he hoped he would find himself mistaken.

Mr. HARPER was strongly opposed to the amendment. He was sorry to see gentlemen determined to support the member from Vermont, at all events, rather than lose a vote on favorite political questions.—The reprimand proposed, he was confident would have no effect upon him; besides it was a punishment of the lightest kind which the house could inflict, and by no means proportioned to the highest possible outrage.—He corresponded in sentiment with the gentleman from New-Jersey with respect to this amendment, and if it were approved by a majority, he should feel ashamed and degraded at belonging to that house. If this were the case, every man who had any regard for his character, would make his escape from the polluted habitation, as such a vote would attach disgrace and infamy to the house, because it was an old and true adage, "He who does not repel vile acts, participates in the infamy."

Mr. SINGREAVES said, if this amendment prevailed (and he trusted it would not) it could only be upon one of two considerations; both of which had been suggested in the course of the debate, viz. the supposed want of power in the house to expel a member for an offence of this kind, or that the punishment is not proper for the offence. Mr. S. went into a variety of arguments to prove that both these objections were ill founded, examined the different theories which had been laid down as applicable to the power of expulsion given by the constitution, endeavoured to prove that the offence under consideration was of the highest magnitude, and that, therefore, it ought to be punished with the highest punishment which the house has the power of inflicting, which is expulsion. A mere reprimand, he said, was by no means, a proper punishment; it was applied to offences of the lowest kind merely. These being his views of the subject, he should vote against the amendment and if it were to prevail, he should vote against the resolution itself; for, so far from such a measure securing them from future injuries, it would only encourage them.—He would, therefore, have nothing to do

with it, but leave every gentleman to protect his own honor. It will then be necessary for them, not only to bring learning and information to Congress, but also a sufficient degree of strength and courage, or if deficient in strength, arms for their defence. With respect to the length of this discussion it was wholly owing to that part of the house who declined to act upon the business immediately, but who chose to have the subject referred to a committee, and afterwards to have the evidence before a committee of the whole, and not to those who have always been ready to adopt the most prompt measures.

(Debate to be continued.)

TUESDAY—FEBRUARY 13.

Mr. OTIS from the committee to whom was referred that part of the President's speech which has relation to foreign Consuls directed him to ask leave to be discharged from the consideration of that business, in order that it might be referred to the committee of the whole to whom has been referred the bill providing for the expenses of government for the year 1798, as an item could be introduced into that bill without going through the formalities of a bill for the purpose.

This motion was opposed by Mess. Gallatin and Nicholas, as they were not certain that the expenses alluded to were authorized by law; and if they were not, it would be proper to authorize the expenses, before they appropriated money to pay them.

The motion was put and negatived, 37 to 33.

The message yesterday received from the President of the United States was read as follows:

"Gentlemen of the Senate and Gentlemen of the house of representatives, 'In obedience to the law, I now present to both houses of congress, my annual account of expenditure from the contingent fund, during the year 1797, by which it appears, that on the first of January last, there remained in the Treasury a balance of 15,494 dollars and 24 cents, subject to future dispositions of government."

JOHN ADAMS."

"United States, Feb. 12, 1798."

It was ordered to be printed. A message was received from the Senate, informing the house, that they had passed a bill for the sale of lands in the North-western territory; and that they had also passed the bill for the relief of the refugees from Canada and Nova-Scotia, with amendments.

Mr. HARPER, from the committee of ways and means, made a report in favor of erecting a light-house in the harbor of Georgetown (S. C.) the necessary cession of the lot having been made to the United States. Referred to the committee of the whole to whom has been referred the bill making appropriations for the support of government for the year 1798; which bill afterwards coming under consideration, an item was introduced into it, providing for this expense.

Mr. COIT reported a bill in addition to an act for promoting the progress of the useful arts, which was committed for Monday next.

The speaker laid before the house a letter which had been received by the Clerk from the legislature of Virginia, inclosing an authorized copy of their agreement to the amendment proposed to the constitution respecting the suzerainty of states. Ordered to lie on the table.

Mr. LIVINGSTON, from the committee of commerce and manufactures, reported a bill for erecting a light-house on Eaton's Neck, and for placing buoys in the several places therein mentioned. Committed for Monday. The same gentleman also made a report on the petition of Sylanus Crowell, managing owner of three schooners employed in the cod fishery in the year 1796, but a fire having destroyed the agreements between the owner, masters and crews, he was prevented from receiving the bounty allowed by law. The committee finding there was at least *prima facie* evidence of the fact, report favorably and recommend a bill for his relief, which report was concurred in by the house.

Mr. OTIS presented a petition from Moses Gill, praying payment of the principal and interest of \$400 dollars laid out in six percent Loan-Office Certificates issued by the state of Georgia during the war. Also the petition of Elias Strong, praying to have remitted certain duties on salt destroyed by fire at Bolton. The former was referred to the committee of the whole to whom has been referred the report on the expediency of excepting certain claims from the operation of the limitation acts; the latter to the committee of commerce and manufactures.

Mr. D. FOSTER, from the committee of claims, made an unfavorable report on the petition of John Jarvis, a soldier in the late war, who prayed for compensation for damages done to his property, which was concurred in by the house.

The Speaker said the business first in order was the unfinished business of the bill providing for our intercourse with foreign nations.

Mr. Gallatin moved to postpone the unfinished business, for the purpose of taking up the bill making appropriations for the support of government for the year 1798, as government was at present drawing money by way of anticipation. There was also a report of the committee of claims, on the subject of excepting certain claims from the operation of the limitation acts, which he thought it would be well soon to act upon, as the delay of it, might induce speculations, which it would be better to prevent.

After some few objections to a postponement of the unfinished business, it was, at length, agreed to postpone it for the purpose of taking up the appropriation bill.

The house accordingly resolved itself into