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CONGRESS.

HOUSE OF REPRESENTATIVES.

DEBATE

On remunerating sufferers under the Sedition Law.

Saturday, May 27, 1809.

MR. STANFORD said he had risen to offer a resolution, which he wanted to have offered immediately after that which had been offered by a gentleman from Virginia, (Mr. Randolph) and adopted by the House, on the subject of prosecutions for libel at common law; but not being then able to get the floor, he would now beg leave to move his by way of instruction to the same committee. That committee, Mr. S. said, had been charged with an enquiry into what prosecutions for libel at common law had been instituted in the courts of the United States, which he hoped the committee would duly make, and lay before the House. Thus the House would see what system of persecution, if any, had been resorted to, and cherished by the late administration or its friends, in any part of the United States; and he equally hoped some remedy might be devised at this time, the beginning of a new administration, to obviate any like occurrence in future. But, said Mr. S. let it not be that any thing be done partially. While we are about to bring to our view all the cases of prosecution for libel under the common law, we are not likely to know any thing about prosecutions for libel, which had occurred under the sedition law, and that too under a different administration. He have not authorised any such inquiry. That abuses have occurred under both, is but too probable, and I think it will be liberal, as it is certainly just and fair, to make the enquiry more general on the subject. If any citizen has been oppressed or injured by such prosecutions, let it be known, and let justice be done him; even now, if with propriety, any way can be devised to do so. Enquiry, however, is all that is asked for the present.

It may be perceived, said Mr. S. and if not, I wish it should be understood, when I speak of justice being done, that I speak with rather peculiar reference to a gentleman of this House, who has been a principal sufferer under the *well known sedition law*. I think it never too late to do justice, under whatever circumstances or motives of policy it may have been withheld for a time. I trust no gentleman will, upon this occasion, suspect me of a design to excite any party feelings. It certainly is not my wish, whatever may be the effect. The resolution I am about to offer is not so framed, nor would it necessarily involve the question of the constitutionality of the law. I feel persuaded, therefore, that the different gentlemen of the House may, from a spirit of liberality and fair concession, indulge the enquiry asked for.

But, sir, said he, since the other enquiry has been gone into, it cannot be unfair to say that the majority of the House owe it to themselves to extend the injury, as well to cases of prosecution under the sedition law, as to those under the common law; and I shall be permitted to say also, they owe it as well to the feelings and sufferings of the gentleman to whom I have alluded. Whatever may be the aspect of political opinions and parties now; it is known to you, sir, and a few others on this floor, that to him much is due for the present ascendancy of the majority; perhaps to no one more, to the extent of his sphere of action and influence. In the famous contested election for President in this House, eight or nine years ago, he gave the vote of a state, which sufficed to decide the contest; and more especially so, if the blank votes of the state of Maryland could have rendered that vote doubtful. But, however, such considerations may or may not avail, nothing is more clear to me than that the enquiry should be indulged on the most liberal principles.

Resolved, That the committee, appointed to enquire into what prosecutions for libels at common law have been instituted before the courts of the United States, be instructed to enquire what prosecutions for libels have been instituted before the courts of the United States under the second section of the act entitled an act in addition to an act entitled an act for the punishment of certain crimes against the U.S. passed the 17th day of July, 1798, and the expediency of remunerating the sufferers under such prosecutions.

MR. SAWYER moved to amend the resolution by adding at the end of it the words "*and that the committee also enquire whether any and what private compensation have been made to such suffering persons.*"

MR. MACON said he did not know how the committee could go about to make such an enquiry as that contemplated by the amendment. The gentleman must be well satisfied that the government could not rightfully enquire into transactions between individuals.

MR. DANA said that he had no particular objection to meet this enquiry. As to the disclosure of facts as to the reimbursement by individual contribution, it might be amusing, if this House had authority to make it. He said he should like to know who contributed to the relief of James Thompson Callender when he was prosecuted; but he had some doubt whether it was proper to enter into any enquiry, or whether it was proper to pass the resolution pointing to the *remuneration of sufferers* under the sedition law. He should have supposed that it might be proper to leave it at large for the committee to report. He said he had certainly no objection to enquire, though he conceived that prosecutions at common law and under the sedition law were essentially different; because, supposing the Congress of the United States to pass such a law, the courts of the United States might take cognizance of it; but without such a law, it did not belong to the judiciary to extend its care to the protection of the government from slander. Such was the decision of Judge Chase (said Mr. D.) who decided that the court had no jurisdiction at common law in suits for libel; and the Supreme Court of the United States never did decide the question. The strong contrast is this: that while there was a description of men who said that no prosecution could be had at common law for libel, nor under the statute which modified the common law so as to allow the truth to be given in evidence—who, whilst they excited indignation against this statute, should afterwards undertake to institute prosecutions at common law where there was no limitation in favor of the defendant. There is this difference in the cases: that we find practice precisely different from professions. I do not say that the heads of departments were instrumental in instituting these prosecutions; but it marks some of the subordinate men who were active in making professions. I am very willing that the proposed enquiry should be made; but I cannot see the propriety of our undertaking to give any opinion as to remunerating those who suffered.

MR. STANFORD said—Mr. Speaker, I would ask if my colleague's motion of amendment can be in order?—It is no concern of this House, or of the government, what private contributions may have been made to the gentleman from Kentucky—and if it was, the enquiry is impossible. [The Speaker said, not being able to enter into the views of the mover of the amendment, he considered the motion in order.] Then, said Mr. Stanford, if my colleague is anxious to know what he could not otherwise know, I will tell him I had contributed a small sum to the gentleman from Kentucky, as a sufferer in what was then considered a common cause; but upon his return to his seat in the House, he could not brook the idea of such a contribution, and returned the amount to myself I know, and to others, I believe. My colleague would do well to tell us how much he contributed. It is well known contributions were made in a quarter not far from him; and if he did not, I am well persuaded it was not for the want of sympathy on his part, or extreme zeal in the democratic cause—for I am confident I have seen as much or more seditious matter from under his pen, than I ever saw from under that of the gentleman from Kentucky. Be that, however, as it may, I am for one willing, if no constitutional difficulty can be shewn, to remunerate the sufferers—at least to take such money out of the treasury, and restore it to its original, rightful owners—and if it cannot be consistently done, why the enquiry can do no harm.—But, indeed, we have great examples in the case before us. Did not the late President, when he came into place, refuse to let such money come into the treasury in the case of the worthless Calender? As the proper authority he thrust it from him as unworthy the coffers of his country—and did not his doing so meet general approbation? I confess it met mine most cordially, and I believe it did that of my colleague also. Have we not, moreover, the best recorded proof that the present President holds similar opinions on this subject? His splendid opposition to the *sedition law* is the proof to which I allude, and is, in my mind, conclusive on this subject. But if it were not, where is the impropriety of an enquiry? The House will be better able to decide when the whole matter shall come fairly before them.

Mr. *Quincy* said this appeared to be a proposition to aid a single individual; and, by the amendment, gentlemen who had aided that individual were anxious to prevent him from gaining more than he had paid. It was a kind of application to the House to re-pay to those persons who relieved the sufferers under the sedition act, the sums which they had paid. If this were the object, Mr. Quincy suggested whether it would not be proper for them to come forward and lay their claim in the ordinary form before the House

Mr. *Sawyer* said he was, as he always had been, willing to contribute his mite to the relief of the sufferers; but he did not wish to see them remunerated from the public treasury.

MR. LYON.—I have been for some time in suspence whether I ought, or ought not to make any observations on the subject before the House; delicacy on the one hand bids me be silent, while a duty I owe to myself, to my family, and to the nation, requires (that since my particular case has been alluded to,) the members of this House & the public, should be made acquainted with many of the circumstances of that case which have either never come to their knowledge, or have long been buried up among the confused heap of political occurences, disputations and publications of these days. Besides, sir, I have it in my power to throw much light on the subject of the inquiry wished for, by the gentleman from North Carolina (Mr. Sawyer) who has proposed the amendment under consideration, & I will assure the gentleman that I shall not be backward in doing so. It is true, sir, that I was unjustly condemned to pay a fine of a $ 1000 & to suffer an ignominious imprisonment of 4 months in a loathsome dungeon; the common receptacle of felons, runaway negroes, or the vilest malefactors, and this when I was the people of Vermont's Representative in this House of Congress. It cannot be said there was no other room in the prison, there were rooms enough; yes sir, one of my judges during my imprisonment found another room in the same jail to be imprisoned for debt in until he gave bonds for the liberty of the yard. To heighten the picture exhibited by official tyranny, and to add to the cruel vexation of this transaction, I was carried out of the county in which I lived, 50 miles from my family, kept six weeks without fire in the months of October and November, nearly the whole of which time the Northwest wind had free admittance into the dungeon, through the same aperture that admitted the light of Heaven into that dreary cell. And let it be asked in these days of the mild reign of republicanism, for what crime was all this extraordinary, this ignominious punishment inflicted?

I hold a copy of the indictment in my hand which includes the charges against me. I will not trouble the House with a recital of the technical jargon and tedious repetition of words of course, which constitute the bulk of such instruments. No, sir, but I will read the identical words of the charge, which says that on the 20th of June 1798, Mathew Lyon wrote a letter to Alden Spooner of Windsor Vermont, in which he said, "As to the Executive, when I shall see the efforts of that power bent on the promotion of the comfort, the happiness and accommodation of the people, that Executive shall have my zealous and uniform support: But whenever I shall on the part of the Executive, see every consideration of the public welfare swallowed up in a continual grasp for power, in an unbounded thirst for ridiculous pomp, foolish adulation & selfish avarice. When I shall behold men of real merit daily turned out of office for no other cause but independency of sentiment—when I shall see men of firmness, merit, years, abilities, and experience discarded in their application for offices for fear they possess that independence; and men of meanness preferred for the case, with which they take up and advocate opinions the consequence of which they know but little of—when I shall see the sacred name of religion employed as a state engine to make mankind hate and persecute one another, I shall not be their humble advocate."

This is the whole of my crime, and what do those words amount to. Who is here that hears these words, but what approves the sentiment they contain, what do I say in these words, other, or more, or less than that when the Executive is doing right, I will support him—when doing wrong I will not be his humble advocate. This ought to be the creed of every member who enters these walls; was there to be an oath or abjuration added to the constitutional oath, to be taken by the members of this House, can any person who hears me, devise a better, or one more proper. Could any person who really thought Mr. Adams quite clear from all these improprieties, as merely possible from the nature of man, mentioned in my letter, have thought of my libelling the President by this declaration? I presume not, sir. Yet this, my crime, received one of the condemnations which you are called upon by this motion to constitute an enquiry into—an enquiry I cannot persuade myself will be refused. The letter, sir, was an answer to a violent invective against me, published in the same paper a short time before, in which besides a number of other charges against me, it was imputed to me as a crime that I acted in opposition to the Executive.

I did not begin the altercation. A person who was a friend to the Adams administration in the act of libelling me, (one of the constituted authorities) ushered the Executive into his performance. My character, ever dearer to me than life, was concerned, I deigned to answer him, after expostulating with him on my right as one of the constituted authorities of the nation to exercise my own judgement in my official conduct, and shewing that my merely differing with the Executive proved no more than that the Executive differed with me. I incidentally proceeded in the words for which I was indicted, the very words I just now read. I was charged with neither more or less as coming from my pen. As if to outrage every principle of law and every sentiment of decency and propriety, this indictment founded on the sedition law passed on the 14th day of July, 1798 charges me with having in Philadelphia on the 20th of June prior, written a letter to Alden Spooner of Vermont, which contained those words I have been reciting. My letter was produced in court and carried the Philadelphia post mark of some day in the same June, I do not recollect which day, Judge Patterson himself admitted this fact and that it was out of my power & control in the June before the sedition law was past. This is the indictment which was the foundation of the barbarous treatment I received carried on its front its own condemnation—but this defect was remedied by the ingenuity of the party judge, who dexterously mingled his assertions that the crime was cognizable under the common law, with his admonitions to a pliant jury not to be deterred from finding a verdict where the man who wrote was a member of Congress and knew the sedition law was about to be passed and probably hurried his letter to evade the law.

It may be said, sir, that I was charged in the indictment with publishing a copy of a letter, from an American diplomatic character in France, to a member of Congress, commonly called the Barlow letter. I was so; and there was a third count in the indictment for aiding and abetting in the publication of said letter. The words selected as seditious were as follow:—

"The misunderstanding between the two governments has become extremely alarming: confidence is completely destroyed: mistrust, jealousy, and a wrong attribution of motives, are so apparent as to require the utmost caution in every word and action that are to come from your Executive; I mean if your object is to avoid hostilities. Had this truth been understood with you before the recall of Monroe, before the coming and the second coming of Pinkney, had it guided the pens that wrote the bullying speech of your President, and the stupid answer of your Senate, in November last, I should probably had no occasion to address you this letter; but when we found him borrowing the language of Edmund Burke, and telling the world that although he should succeed in treating with the French, there was no dependence to be placed on their engagements; that their religion or morality was at an end, and they had turned pirates and plunderers; and it would be necessary to be perpetually armed against them, tho' you were at peace, we wondered that the answer of both Houses had not been an order to send him to a mad-house! Instead of this, the Senate have echoed his speech with more servility than ever George the 3d experienced from either house of Parliament." No proof appeared on the trial of my printing or aiding, or abetting in printing, or circulating a printed copy of this famous letter. I had read the copy of the letter in company, but the advocates of the sedition law would never admit that such reading was punishable by that law. The printer who printed the letter, swore that he had been anxious to get the letter from me, and that I had refused to suffer it to be printed, and repelled every attempt to persude me to the printing; that he had obtained the copy of the letter in my absence. The fact was, that my wife was persuaded by a gentleman who is now a member of this House, that the republican cause and my election (which was pending) would be injured if the letter was not published; and, as I understood, she gave it to him; the letter was printed, and that gentleman had some of the copies before I came home: I suppressed the remainder of the edition. The judge finding no proof to support this part of the charge, directed the jury to find a verdict of guilty generally, as there could be no doubt of my being guilty on the first count. I had acknowledged my having written the letter to Alden Spooner. They did so. I will not detain the House by going into a detail of the manner in which that jury was packed. After all the care and management in the original selection, there was one man on it, whose honesty my persecutors feared; and to get him off a wretch falsely swore that the summoned jury man had expressed to him something like an opinion that I could not be found guilty. I will not here dwell upon the judge's denial to me of a challenge upon the jury,—as great a crime as any Judge Chase was charged with. I look for an investigation of this business when all the features of it shall come fairly to public view. Should that investigation be refused at this time, I shall not fail to look for it at some future time. I can never forgive the unjust stigma that has been placed on my character; and should justice be refused me during my whole life, I will leave it with my children and theirs to seek it. When my enemies wounded my feelings, robbed me of my property, and affected temporarily my reputation, I consoled myself that my friends would soon be in power, and they would make every thing right. My wounded honor would be consoled; the wound would be healed—a share at least of the property of which I had been deprived, would be reimbursed.—How cruelly have I been thus far disappointed!—Generous men, at the time I suffered, said it is enough for you to bear the mortification of the temporary insult—we will share with you the loss of property. Under this impression much money was collected—the greater part of which went to relieve oppressed republican printers—it has all been charged to me. I never asked, nor would I have received a cent of this gratuity, could I have avoided it without insulting the benevolent views of the good man (general Stevens Thomson Mason, deceased) who set the subscription on