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CONGRESS OF THE UNITED STATES.

House of Representatives.

Wednesday, January 21, 1801.

Sedition Act.

(Debate Continued.)

Mr. Claiborne made a short reply to some observations which had fallen from Mr. Harper. Mr. Claiborne said, that spirit which the gentleman from South Carolina so much dreaded, he highly venerated; that *fanaticism* against which the gentleman so much declaimed, was the *will* of the *People*, and *their voice* could alone be terrible to the satellites of despotism. It was *that voice* which had heretofore broken the fetters of our transatlantic subjection, and will never suffer political chains to be forged for our country, either by foreign or domestic tyrants.—Mr. C. believed, that the sentiments of the American citizens were much averse to the law under consideration; they viewed it as an arbitrary and oppressive *act*, dangerous to their freedom and happiness, and during *its existence*, the public mind could never be tranquil.

Mr. C. declined an examination into the constitutionality of the law in question. He waved this enquiry, because this point had been so frequently and ably discussed, that it was not in his power to introduce any new argument. He would say however, that the measure had always been viewed by him, as a violent outrage upon the great charter of American rights, *the Constitution*, and from this and other causes, had arisen his former opinion. Mr. C. was of opinion, that the revisal of the Sedition Act, was highly inexpedient. It would be remembered, that for eight years after the organization of this government, the powers vested in the different departments were exercised, without the aid of a sedition Act. That great character who was then at the head of the government, asked no such shield, and required no such protection. To calumny he opposed virtue and integrity, and thus fortified, the shafts of calumniators can inflict no wound.

Mr. C. remarked, that the conduct of our public men should always be investigated; that free investigation was inseparable from a representative government, and essential to its preservation; that in such investigation, base men might resort to calumny, but this was an evil which could not be remedied without rendering insecure a valuable privilege.—Mr. C. anticipated no good that could flow from this act, but on the contrary, he apprehended much mischief.

If an administration is honest and wise, it needs not the support of *this law*, but its existence may do such administration immense injury. Awed by the fear of punishment, the labors of calumniators will be veiled in secrecy, and the operations of detraction will be so private, that a detection will be difficult, and truth and virtue, may thus be assailed with success. But, repeal this act, lay no restraint upon enquiry, and then political investigation of every description will come boldly out, error may be met by truth and calumny by virtue.

Mr. Rutledge had not intended to have raised his voice on the present occasion, nor should he now trouble the committee if it was not for the purpose of giving correction to some mistatements which had been made by the hon. gentleman from Maryland (Mr. Nicholson). In recapitulating the evils and mischiefs which had resulted from the Sedition law, he had mentioned as facts some of the tales of detraction and falsehood which had been very generally circulated, and which, owing to popular delusion and credulity, had been very generally believed. The first in order was a pathetic history of a printer, who, as we are told, was a martyr to this law, and pursued under it to death. Mr. R. had often heard and read of the case of Adams, the printer, who, it was stated in most of our public prints, as it was this day stated by the member from Maryland, had been prosecuted under the Sedition act, thrown into a sickly dungeon, where, loaded with chains, he had died. In the course of the last summer, I happened to be in Boston, and after enquiring about the business, learned the following facts; that a printer, of the name of Adams had been prosecuted at common law, in the state courts of Massachusetts, for a libel against the Senate of that commonwealth, and had died some time after he was released from jail. So that the sedition law had nothing to do with this case; the proceedings were under a state law and in a state court, and the story which the gentleman from Maryland believed to be *a fact*, and which had been mentioned as one in many of our papers, turns out, upon investigation, to be a fiction—a mere opposition trick practised for the purpose of injuring the government. He had given to the committee the history he received at Boston, of this transaction, but his friend near him, who is the representative of that city, had just now interrupted him, to say the latter part of the narrative was incorrect, for the printer is still living: so that the victim we just now saw in a foul dungeon, loaded with chains and dead, it now appears is alive. Thus much for the history of the printer. After having been told of his prosecution under the sedition law and dying in jail, we were reminded of the hard sufferings of a member of this house—the respect due to all its members forbids making comments upon this case. The trial of Cooper, at Philadelphia, was adverted to by the gentleman, (Mr. Nicholson) who had made an implicit charge of cruelty on the judge, for having refused leave for taking the testimony of the president of the U. States. What motives governed the decision of the bench he could not say; but many very strong reasons present themselves why the request ought to have been resisted, and why the chief magistrate should not be drawn from place to place as a witness in courts of law. In the case of Cooper, it was believed at the time, and afterwards known, that his object in soliciting the attendance of the president was merely to perplex the court and induce a postponement of his trial. This was proved by his conduct to many of this house—so many of them had been summoned by him, as witnesses, that Congress was obliged to adjourn to enable them to attend the court, where, after remaining from ten to three o'clock, they were told, upon the judge's promising to have them sworn, that they would not be wanted. This was the conduct of Mr. Cooper, whose trial he attended, and which he could say with great confidence, as many members who now heard him, also attended, was one of the fairest and most deliberate that ever was had. As the gentleman from Maryland had been mistaken in his facts, Mr. R. deemed it important to correct his mistatement, inasmuch as it is highly desirable to keep the public proceedings and to undeceive the people of errors, into which they have been led by the tales of rumor. In governments like ours, where all political power is derived from the people, and whose foundations are laid in public opinion, it is essential that the people be truly informed of the proceedings, the motives and views of their constituted authorities; it is the duty of the latter to keep in a state of purity the channels of public information, and to make liable to exemplary punishments, malicious persons, who by wantonly disseminating unfounded suspicions, impose upon the understandings, enflame the passions, and mislead the judgments of their fellow citizens. In a republican government, where public opinion rules every thing, it is all-important that truth should be the basis of public information. Government, which is the preservative of the general happiness and safety, cannot be secure if falsehood and malice are suffered to rob it of the confidence and affection of the people.

Although my sole motive for rising, said Mr. R. was to correct the mistatements of the gentleman who had preceded me, yet as I am up, I will trouble the committee with a few remarks upon the observations which have been heard from the other side of the house.

The member from Kentucky, (Mr. Davis) in a speech in which more acrimony was exhibited than he usually displayed, had painted in very vivid colors, the evils to be entailed upon us by the re-enacting of this law; but, after recapitulating them, had concluded with saying *he had nothing to fear from it, because he was an honest man*. If sir, honest men have nothing to apprehend from this measure, whence all this clamor against it, and wherefore all this fear and horror? Why sound the tocsin, and why agitate the country, when *honest men* have nothing to fear; If this law, which subjects men to a punishment who publish false, scandalous and malicious writings against the government, *with intent* to defame and to bring it into disrepute; and men who stir up sedition and excite unlawful combinations in the United States; and men who encourage the hostile designs of a foreign nation; I say if a law which constitutes these things crimes, and which gives to the accused a trial by jury, and gives him the privilege of giving in evidence the proofs of the matter contained in the libel; if such a law cannot, in the opinion of those who oppose it, produce inconvenience to *honest men*, I cannot believe that gentlemen are very much in earnest who so warmly deprecate its renewal; the renewal of a law under which no man can suffer who is not convicted, by a jury, *of the intention* to disturb the public repose. The member from Kentucky had again introduced his favorite figure, and told us the sun of federalism would shortly go down—he had added quite a new order of things would be introduced, and said triumphantly, every thing will be burnt up, and we will begin again anew. Sir, the sun of federalism will not decline; in spite of the whimsies of reforms, our federal fabric will still endure; although its structure may seem rude and gothic to theoretical and experimental gentlemen, the great body of our citizens will cherish and support it; in stormy and tempestuous times it has sheltered their property and protected their independence, and they will suffer no rude hands to violate it. Our federal fabric will not be dissolved, sir; and I trust we shall tenant it with a practical gentleman who will have judgment, taste, and genius enough to appreciate its integrity. Of the threatened conflagration and new order of things, I am not afraid. During the rage in this country of the Gallic mania, the friends of the government had much cause for apprehension; but, thank God, sir, the season has passed away, and the people of America will profit by the awful & mournful lessons they read in the modern history of Europe; they will firmly resist the adoption here of theories, the practice of which in other countries under the imposing names of reform and improvement, have produced subversion and ruin.

Respecting the constitutionality of this law, I will only observe that our judiciary (and they are the only appropriate judges of its constitutionality) have decided, and repeatedly decided, that it was constitutional. An honorable gentleman from Virginia, has told us that a more high and respectable tribunal, *the people*, had declared it unconstitutional. Sir, I am not so good a democrat, nor so diffident of myself, as to have recourse to the people on the passage of every law to enquire of them if it be constitutional. As a legislator it is sufficient for me, that with the best understanding I can obtain of the constitution, I take care not to violate it, and to know that if through error of judgment I travel beyond the sphere of the constitution, my errors will immediately be checked by a mound and barrier which cannot be overleaped. If any proceeding of the legislature be unconstitutional, I have the consolation of knowing the judiciary will declare it so; and to the decisions of our venerable, and profoundly learned judges, I look up for information whenever the constitutionality of a law is questioned, and not to the resolutions of popular and tumultuous meetings. If upon every constitutional doubt, we are to have recourse to the people, there is an end to representative government. We have been told this law was odious to the people, and that they had declared their execration of it: sir, the truth of this position seems to me more than problematical; I will never estimate the sentiments of the American people by the opinions expressed in some sections of the people; as a representative of the whole, I am not to be governed by the will of a part; and the discontent displayed in Virginia, Pennsylvania and Kentucky, cannot convince me that the people throughout the United States were discontented with this law—the truth is, sir, that in those sections of our country where clamors have been raised against this law, every thing is disliked and every thing is abused which emanates from the federal government.

But respecting this law we have evidence of its not being disliked by the people generally. I refer to the calls made by the legislatures of Virginia and Kentucky on those of all the states respectively for reprobation of this law, and to all of them having refused or neglected to do so. I regret that this law is odious to the people of Virginia. I would wish that every act of the government was approved by every citizen of the country, if such a thing were possible, but I know this to be impossible in a free government. I am too well acquainted, sir, with the character of man, to expect unity of sentiment among the people of this country respecting the conduct of a government under which every man has the privilege of expressing unreservedly whatever he thinks on political subjects. As reasonably may we expect the same capacity of intellect from every man in the community, as that all men in it should think alike on any one political subject. A diversity of sentiments among men is incidental to our nature, and expressing this difference of opinion is an illustration of our political freedom. If any honorable member of this house supposes the people are contented in those countries where no popular murmurings are heard, he deceives himself; theirs is the silence of the grave, and they are silent because they have not the power of complaining.

We have been told by the gentleman before me from Maryland that a virtuous administration had nothing to fear from slander and falsehood; that if things said are not true, the saying of them cannot injure. Can this, sir, be his deliberate opinion? Is he justifiable with his knowledge of the world in making this assertion? Does he not know that virtue does not form an impenetrable shield against the arrows of slander? He must know that calumny is too subtle to be warded off by the mantle of innocence. He must know that continued defamation will at length sully the fairest reputation, and throw suspicion on the purest conduct. I say the gentleman must know these things; he knows it from the experience of the world, he knows it also from his own experience as a member of the learned profession. He knows that actions for slander are brought and sustained in our state courts at every term. Would he say to a client who had been robbed of the fairest heritage of man, his good name; whose head had been pillowed with thorns, and whom foul calumny had stretched on the bed of torture, would he say to him, if you are innocent of these charges they will not be believed? —The innocence of a mind conscious of its own rectitude will blunt and render harmless the arrows of slander: will make them recoil on the calumniator. No, sir, this would not be his language nor his conduct, but he would make high demands of indemnification for the injury done to his constituent in attempting to deprive him of his good name, the loss of which makes man poor indeed. I know that such would be his course of conduct; for the high value he places on the high reputation he very deservedly sustains would make him pursue this course. His veneration for the liberty of the press would not make him tolerate its licentiousness. He knows this demands a correction wherever they have presses, but more than any where else under