in that house he had never known any business precipitated in that manner.—When the report of a select committee upon a petition of the most trifling nature was referred to a committee of the whole—on motion of any gentleman a distant day would be assigned; an order would be made for printing it, and in short the most solemn deliberation would mark every step of its progress. What had been now done? One hour had scarcely passed away since these petitions were ushered into the house; and we are now discussing them in committee of the whole. They were not permitted to be printed, and members of the House were uninformed of their contents except from the cursory reading at the clerk's table.

Mr. S. said he hoped gentlemen would be able to justify that procedure to themselves—but he did believe in a moment of calm reflection they would find it a fruitful source of pungent regret.

Mr. Smilie would ask whether the supreme court in such a case as this could be denominated an impartial tribunal? He asked, if they had not seen the time when during the disputes between the clergy and laiety, the wise man, not of the clerical order, would have trusted himself in the hands of the clergy. The same remark applied to the military; and also, with equal force, to the judges of the supreme court. He really, however, thought that the judges would not receive the salaries, even if they were offered to them, as it would be contrary to every idea of patriotism. He, therefore, considered the application as a mere matter of form.

Mr. Nicholson said if this question had never before been argued, there might be some degree of propriety in the remarks of gentlemen, and the House perhaps might be chargeable with precipitation. But he begged it might be remembered that the very question embraced by the resolution now on the table, had at the last session undergone the most ample discussion that ever took place in Congress. It had not only been argued here for a considerable length of time, but he believed it had attracted the attention of every reflecting man in the nation—A strange distinction however is attempted to be set up. At one moment gentlemen declare it is not the same question, and immediately after concede by their arguments that it is the same. They say that men of high legal character in the United States have granted that Congress have a right to take from the judges all power of acting as such, but deny the right to destroy the office. They may divest him of power, but the office must remain, and he is still a judge. To him this was a perfect absurdity. He could not possibly conceive the idea of a judge, who had nothing to do; who had no duties to perform, no power to decide. These high legal characters supposed that he might remain a judge for the purposes of receiving his salary, but not for the purpose of performing any duty. This was not his idea, and both the gentlemen from Connecticut (Messrs. Griswold and Dana) appeared to agree with him in opinion. In fact it was the great ground of dispute last session, whether you could repeal a law under which a judge was appointed, and thereby deprive him of his office, by taking from him all the powers and duties of a judge. Whatever the opinions of high legal characters might be on this question, Congress had last year after full and ample discussion, solemnly decided, that they had a right by repealing the law, to divest the judges of their judicial powers, and thereby destroy their offices.

Another gentleman from Connecticut (Mr. J. C. Smith) had alluded to a law passed some years ago, which assigned certain duties to the judges of the supreme court, in relation to the claims of persons who alledged that they ought to be placed on the pension list. It would, no doubt, be recollected that the judges refused to carry this law into execution; and he might be permitted to ask what security there was that they would not now refuse to carry into effect any law which we might pass embracing the object of the resolution? Was it to be imagined that they would refuse to decide on the claims of those who fought our revolutionary battles, and yet kindly attend to the claims of their brethren? The resolution contemplated giving the power to try the right of the judges to their claims, but the great object in reality was to authorize the judges of the supreme court to decide upon the constitutionality of the repealing act. Let this object then be avowed; let it be so declared openly and not introduced in this incidental manner. From the remarks made last year by gentlemen on the other side of the House, it was a little surprising that this application should be made, for it was then strenuously contended, that the supreme court had the right to decide upon the constitutionality of all laws. Why then ask for it? If they have this right we need not confer it; if they have it not, we cannot give it them. If the petitioning judges can bring their case before the supreme court, let them do so. My consent shall never authorize it. If the supreme court shall arrogate this power to themselves, and declare our law to be unconstitutional, it will then behove us to act. Our duty is defined.

In his opinion, Mr. N. said the best method of trying the right of Congress to repeal the judiciary act, had been for some time, and was yet in operation. The people constituted the great tribunal before whom the constitutionality of all laws of Congress should be brought, and by them this question will be decided. Some of them have decided, and the remainder will decide by their elections. It is an impartial tribunal to whom we may all appeal, and their judgment will bind us. To their decision it is already referred, and with them he was willing to leave it rather than to any court of justice.

Mr. Eustis said when the office of the judge was abolished, all his duties ceased. The salary allowed was a compensation for services. Now when there were no services to be performed, what salary could there be allowed, or what retribution demanded? On what did this claim rest? On the opinion of the judges. But by the decision of the last winter their offices were abolished; it followed, therefore, of consequence that their salaries ceased too. This was a plain and simple question. He considered the memorial as the protest of the judges against this decision. As such, he was willing that it should rest on the files of the House; and instead of being offended at this treatment the judges ought to be thankful. When he observed yesterday a memorial presented by an individual for a greater amount than the claim of all the judges, and observed how lightly it was treated, and particularly by the Chairman of the committee of Claims (Mr. John C. Smith) who moved the reference, he was surprised that he, above all men, should complain of the treatment of this memorial, which had been respectfully referred to a committee of the whole. Mr. Eustis concluded by observing that he forebore going into the merits of the memorial.

Mr. Dana said the ideas of the gentleman from Massachusetts were in one respect correct. The memorial of the judges was a protest against the law passed by Congress. It was proper they should make it, so far as they confined themselves to language not indecorous or disrespectful. He would admit likewise that the question of powers decided the question of salary. Others, however, entertained a different opinion. Why object then, in a case where there was a difference of opinion to refer the decision to an impartial tribunal. The only question is, whether in a contest for power, you, the legislature will claim the exclusive exercise of power, and whether, even if you shall exceed the constitutional limits, you will assert the entire right of saying so, or whether you will refer it to a tribunal which shall be an umpire between those who hold different opinions.

Mr. Nicholson moved to amend the resolution. He observed that the judges of the circuit court were the judges of the supreme court and those of the district court united. He therefore moved to insert before the word "*judges*," the word "*former*."

Mr. Griswold, wishing to have the question directly taken, moved to add after "judges of the circuit court"—these words, appointed under an act entitled "An Act to provide for the more convenient organization of the courts of the United States passed on the 13th of February 1801."

Mr. Nicholson agreed to the insertion of those words with the addition of the following: which he moved; "which said act was repealed at the last session of Congress."

This amendment was carried—Ayes 56.

Mr. Alston said the resolution required another amendment. As it now stood, it would appear that all the late Judges of the Circuit Court claimed a compensation for services not rendered. He believed this was not the case. There were some of those Judges who had made no such request. He, therefore, moved to insert the name of those who had presented memorials—also to insert the word "late"—before the word "Judges."

Carried without a division.

The resolution as amended stood thus: Resolved, that provision ought to be made by law, for submitting to Judicial decision the right of William Tilghman, Oliver Wolcott, Jeremiah Smith, Richard Basset, Philip B. Key, George K. Taylor, Charles Magill, Samuel Hitchcock, Benjamin Bourne, Egbert Benson, and William Griffiths, late Judges of the Circuit Court appointed under an act entitled "an act to provide for the more convenient organization of the courts of the United States passed on the 13th February 1801," which said act was repealed at the last session of Congress, to their compensations.

On which the question being put, it was lost—Ayes 35—Noes 57.

Mr. Varnum observed that the memorial contained two principles both of which had been negatived. To draw the attention to a final decision he would move another resolution, to wit: "That the prayer of the petition of William Tilghman, and others (naming them) *late Judges of the Circuit Courts of the United States*; ought not to be granted, and that the petitioners have leave to withdraw their petitions.

Mr. T. Morris moved that the committee should rise and report progress, that the petition might be printed. Negatived without a division.

The resolution was then carried without a division, when the committee rose and reported it.

The House immediately took it into consideration; when *Mr. Randolph* moved to strike out the words "late judges of the circuit courts of the United States."

Mr. Griswold said he presumed it was not the object to expunge all evidence of these gentlemen being Judges, or late Judges of the Circuit Courts of the United States; and yet that would appear to be the effect of the motion. He must, therefore, call for the Yeas and Nays, which would make that fact be recorded on the Journals.

Mr. Randolph said he had made the motion, that the resolution might conform to the prayer of the petition. Had the memorialists called themselves late Judges, he should have had no objection to their being so designated in the resolution. His wish was to style them in the resolution as they had styled themselves.

Mr. Griswold said though they had not expressly styled themselves circuit Judges; yet they had stated that they had been appointed circuit Judges under a law of the United States. They had therefore virtually so styled themselves.

A few words were added by Mr. Eustis against, and by Messrs. Randolph and Nicholson in favor of striking out the words, when the question was taken by Yeas and Nays and carried—Yeas 50—Nays 47.

The question was then taken by Yeas and Nays on the resolution as reported, and amended by striking out the words in *Italic*, and carried—Yeas 61—Nays 37—as follow:

YEAS—Messrs. Alston, Archer, Bacon, Bishop, Bowie, Brent, Brown, Butler, Cabell, Claiborne, Clay, Clopton, Condit, Cutts, Davis, Dawson, Dickson, Early, Elmendorf, Elmer, Eustis, Gray, Gregg, Hanna, D. Heister, J. Heister, Helms, Hoge, Holland, Holmes, Jackson, Leib, Meriwether, Mitchill, Moore, Mott, New, Newton, jun. Nicholson, Randolph, jun. Smilie, Israel Smith, J. Smith, N. Y. J. Smith Virg. Josiah Smith, S. Smith, Southard, Stanford, Stanton, Stewart, Taliaferro, jun. Thomas, Thompson, A. Trigg, J. Trigg, Van Cortlandt, Varnum, Van Horne, R. Williams, Winn, Wynns—61.

NAYS—Messrs. Baude, Campbell, Cutler, Dana, Davenport, Dennis Foster, Goddard, Griswold, Grove, Hastings, Hemphill, Henderson, Hill, Huger, Hunt, Lowndes, Mattoon, L. R. Morris, T. Morris, Perkins, Plater, Read, Rutledge, Shepard, J. C. Smith, Stanley, Stratton, Tallmage, Tenney, Thatcher, Tillinghast, Upham, Van Rensselaer, Wadsworth, L. Williams, Woods—37.

FRIDAY, *Jan.* 28, 1803.

Mr. Dawson moved the following resolution, which he prefaced with a few remarks, the object of which was to shew that the contemplated measure would produce a saving of time and money.

Resolved, That during the present, and at the commencement of every session of Congress, two additional clerks shall be elected, to be denominated "Committee Clerks," whose duty it shall be to attend to the business referred to the several committees, and to keep records thereof; and who shall receive for their services an adequate compensation.

Mr. Dawson moved that the House should immediately take the resolution into consideration.

Motion lost—Ayes 19.

Mr. Nicholson presented the following memorial from the citizens of Washington:

To the Senate and House of Representatives of the United States of America in Congress assembled, the Memorial of the Subscribers, citizens of Washington, convened on the 26th instant, (January.)

RESPECTFULLY REPRESENTS:

That your memorialists, in common with the other inhabitants of the territory of Columbia, are seriously impressed with the unfavorable circumstances in which they are placed, and still more seriously impressed with the apprehension of greater evils likely to ensue. Their short experience has forcibly confirmed the wisdom of all the political institutions of America, by which the citizens of an independent republic, except in the solitary case of Columbia are invested with the powers of self government; powers commensurate to the protection of their rights and the promotion of their happiness. Notwithstanding, however, the deprivation of this inestimable right, they have hitherto submitted without a murmur to the provisions established by the collected wisdom of the nation, in the hope that their interests, under the guardianship of the general government, would be solicitously consulted and faithfully promoted. But an experience of more than two years has proved that hope illusive. Of the unfeigned desire of the legislature of the United States to discharge every duty assigned them by the constitution, they entertain no doubts; but it is their belief that a legislative body, instituted for the accomplishment of great national objects, and unacquainted with the minute and local circumstances attending the territory of Columbia, cannot be considered as possessed of that peculiar knowledge which is required in legislating for them. Nor are your memorialists insensible to the impropriety of claiming, to the neglect of national concerns, and at a great expence, so large a portion of time as such legislation would demand.

Under these considerations, and with impressions derived from the known friendship of Congress, your memorialists request that they may be authorised, in common with their fellow citizens, to elect delegates to a convention, to establish a system of government for themselves, if such shall appear to be their sense, as expressed through the organ of their representatives so assembled; or if such shall not appear to be the sense of the territory, that they be empowered to recommend to the adoption of Congress such other measures as shall in their opinion best promote the general welfare of their constituents.

As citizens of the United States, as members of a great and independent empire, founded on equal rights, and diffusing equal happiness and protection, we appeal to the magnanimity, the patriotism, and the justice of Congress. We ask that which they can give without derogating from their dignity or impairing their power; and that, without which our industry and resources, active and extensive as they are, must be without avail.

Other objects, of an interesting, though subordinate nature, in our opinion, claim the early attention of Congress. To them, as exhibited in the annexed statement, we respectfully invite their attention, trusting that their pressing importance will obtain the contemplated legislative redress during the present session.

ROBERT BRENT, *Chairman.*

The above memorial, with a counter memorial from the citizens of Alexandria, were referred to Messrs Thompson, Plater, Campbell, Taliaferro and Early.

A letter, received from David Humphreys (noticed in our last) respecting presents made him by the Dey of Algiers and the king of Spain, after considerable debate on a reference to a committee of the whole, or a select committee, was referred to a select committee, consisting of Messrs. Jones, Dana, and Elmendorf.

Mr. Eustis reported a bill to provide an additional armament for the protection of the seamen and commerce of the United States, which was read twice, and referred to a committee of the whole on Monday next.

Mr. Davis, one of the members from the state of Kentucky, presented to the House, certain resolutions of the legislature of the said state, together with a memorial annexed thereto from the said legislature, addressed to the President of the United States, and the Senate and House of Representatives, of Congress, representing, that in consequence of a violation on the part of Spain, of an article of the treaty of friendship, limits and navigation between the United States and the king of Spain, the citizens of the said state are deprived of a place of deposit, in the Spanish territory, in conformity with the stipulation contained in the said treaty, by the proceedings of the Intendant at the port of New-Orleans, who has, by a proclamation, dated the 18th day of October, forbidden American citizens to deposit their merchandizes and effects in the said port of New-Orleans, without having assigned to the United States, an equivalent establishment on another part of the banks of the river Mississippi; that they rely on the wisdom and justice of the government of the United States to redress the grievance of which they complain, and pledge themselves to support, at the expence of their lives and fortunes, such measures as the honor and interest of the United States may require, in defence thereof.

The said resolutions and memorial were read, and ordered to be referred to the committee of the whole House, on the state of the Union.

Mr. Davis said the war department had pursued a method of granting military land warrants, in his opinion, not conformable to the resolves of congress, granting a bounty in lands to officers and soldiers who served in the late revolutionary war. He would not say that the practice was uniform, but as it related to his own personal application it was, and he expected it was so in all cases. He would be explicit. The war department does not grant warrants to the representatives of any person slain in the service of the United States, unless such person, was enlisted for during, or served to the end of the war. It was his opinion, that the representatives of any person killed in the service of the United States were entitled to bounty land, whether they had enlisted for the whole of the war, or for a shorter time. In this opinion he was not singular. He had spoken to two gentlemen from Maryland, who appeared to accord with him in opinion.

Mr. D. said he did not expect the war department would depart from their usual practice without some legislative interference. He therefore proposed the following resolution, to wit:

Resolved, That the committee appointed on the 29th ultimo, to enquire into the expediency of giving further time to the holders and owners of military land warrants to locate the same, be, and they are hereby directed to enquire whether any and if any what legislative provision is necessary to carry fully into effect the resolutions of congress of the 16th of September 1776, and the 12th of August 1780, which give a bounty in land to officers and soldiers who served in the late revolutionary war.

This resolution was immediately taken up and agreed to.

Mr. Davis said there was another subject he was desirous of bringing before the house; it was the ascertaining how much land, belonging to the Virginia troops on state and continental establishment, was ceded to the Cherokee Indians by the treaty of Holstein of the 22d of July 1791. If gentlemen will take the trouble to examine the 4th Art. of that Treaty, they will find a line is to be run from a point on Cumberland River a South West course until it strikes the ridge that divides the waters of Cumberland from those of Duck River, 40 miles above Nashville. This line, he said, went through the lands of the officers and soldiers of Virginia, a considerable portion of which fell in the Indian Territory. By the same Treaty a very considerable part of the Holstein district of Tennessee was also ceded to the Indians; a part too that had been settled for years. Such was the ignorance of the men, who made the Treaty, of the Geography of the country.

The Legislature of Tennessee and the suffering people remonstrated to Congress, and President Adams ordered a Treaty to be held by which the Indian title was extinguished, and the people quieted in their possessions. No representation has ever been made to congress in relation to the military lands ceded away by this Treaty. The United States, he considered, were bound to extinguish the Indian title to the lands before mentioned. It was easy to ascertain the number of acres thus ceded away. Major William Croghan was the surveyor for the Virginia state troops. From his office a report could be procured with little expence, which would shew how much land belonging to the Virginia state troops was ceded by the Holstein treaty. Colonel R. Anderson was agent and surveyor general for the Virginia troops on continental establishment. From him a report could be easily procured, which would shew how much of that land was ceded to the Indians. He therefore presented the following resolution, viz.

Resolved, That the committee appointed on the 27th ultimo, be and they are hereby instructed to digest some plan by which it can be ascertained how much surveyed and patented land belonging to the officers and soldiers of Virginia on state and continental establishment is ceded to the Cherokee Indians by the treaty of Holstein held on the 2d of July 1791.

This resolution was immediately taken up and agreed to.

The House went into a committee of the whole—*Mr. Davis* in the chair—on a bill in addition to an act fixing the military peace establishment.

Mr. Randolph moved to strike out the 3d section, which allows in the whole to the paymaster, adjutant and inspector of the army 2,000 dollars for clerk hire.

Motion lost—Ayes 29—Noes 40.

The committee rose, and reported the bill without amendment, which was ordered to a third reading on Monday next—Ayes 36—Noes 26.

MONDAY, January 31. 1803.

Mr. Bacon, from the committee of elections, reported on a resolution respecting the tenure of the seat of Paul Fearing, a delegate from the North Western Territory, that the said delegate is entitled still to hold his seat.

An engrossed bill for the relief of William Ray and John Follawell was read the third time and passed.

An engrossed bill in addition to an act entitled an act to fix the military peace establishment of the United States, was read the third time and passed—Ayes 41.—

Mr. Dawson, from the committee on so much of the President's Message, as relates to Indian concerns, made a report containing four resolutions, viz.

1. For the continuance of the act for the establishment of Indian trading houses.

2. For the appropriation of 10,000 dollars to obtain further cessions of land from the Indians.

3. For the appropriation of 2,000 dollars to purchase articles necessary for conducting salt works on the Waballi.

4. For opening an office for the sale of lands in the Mississippi Territory, to which the Indian title has been, or shall be, extinguished.

Referred to a committee of the whole, and made the order for Wednesday.

An engrossed bill, authorising the sale of a piece of land belonging to the navy yard in Salem, Massachusetts, to the Sa-