

## Congress.

IN SENATE, JANUARY 5.

Agreeably to notice, Mr. Pope presented a bill for the improvement of the United States by public roads and canals.

Mr. Giles submitted the following motion.

*Resolved*, the House of Representatives concurring therein, that a joint committee be appointed to the President of the United States the joint resolution of the two Houses respecting the conduct of Francis James Jackson, his Britannic Majesty's minister Plenipotentiary near the United States, and that the committee on the part of the Senate consist of \_\_\_\_\_ members.

### HOUSE OF REPRESENTATIVES.

FRIDAY, Jan. 5, 1810.

Mr. Vandyke appeared and took his seat. Mr. Poindras presented the petition of the President and Directors of the Orleans Navigation Company, praying the erection of a light house.—Referred.

The committee of Public Lands, to whom was referred the petition of Jacob Garrett, made a report in his favor, and also reported the following resolution.

*Resolved*, That from and after the 1st day of June next, any person making application to the register of any of the land offices of the United States for the purchase of a tract of land, shall produce to him a memorandum in writing stating the number of the section, half section or quarter, as the case may be and of the township and range for which he shall make application, subscribing his name thereto, which shall be filed and preserved by the register in his office.

The report was agreed to and referred to the committee to bring in a bill.

### RULES & ORDERS.

On motion of Mr. Smilie the House resolved itself into committee of the whole on the report of the committee appointed to report rules and orders for the government of the House.

This report contains the following amongst other rules:

The previous question shall be put in this form: "Shall the main question be now put?" It shall only be admitted when demanded by one fifth of the members present, and, if decided in the affirmative, shall be instantly put without amendment or further debate, but if decided in the negative, the business shall progress as if the previous question had not been called.

"On a previous question there shall be no debate."

Mr. Livermore moved to strike out the first of these rules.

This motion was supported by Messrs. Livermore, Gardener, Quincy, Shaffey, Ely, Pickman, Wheaton, Dana and Emott, and opposed by Messrs. Rhea, Basset, Ross, Smilie, Southard, Boyd, Findley, W. Alston, Root and Johnson.

The arguments in favor of striking out the rule relating to the previous question were, generally, that it had for its object the abridgement of the freedom of debate, and was following too closely the practice of the British Parliament; that this House being constitutionally a deliberative assembly, it was not for the majority to say, thus far shall debate be permitted, and no further— for, if they could do this, they had the same right to say that the minority should have no voice; that it would prevent the minority from shewing the enormity of the doings of the majority, and would shroud their acts in the mantle of darkness; that at present much time might indeed be consumed in useless debate, but that this evil ought to be regulated by a sense of propriety and not by a rule of the House; that if this rule were adopted, the most important measures might be decided without a word of debate, although on hearing arguments gentlemen might have changed their opinion of them; that this rule might remind the House of the circumstance that when the Abbe Sieyes had presented a constitution to the consideration of Bonaparte, the conqueror was charmed with the feature of a *Dumb Legislature*; that legislation without debate was always favorable to tyranny; that the intro-

duction of a rule providing for the previous question was not even necessary for the purpose which its advocates had in view; for, from late experience, it was known that whenever the minority were disposed to form a question, they had it in their power so to do; that such a rule was unconstitutional, because the constitution forbade Congress to restrain the freedom of speech, and, if they could not restrict the people in the freedom of speech, much less surely could they a bridge that privilege in this House, the sanctuary of liberty; that every member of this House had a right to deliver his sentiments on any subject before the House, and could not be deprived of it; that this privilege, like the freedom of speech, was productive of some evil, but the moment either was restrained, such restraint was an invasion of the principles of free government; that the rule, however colored, amounted to this, that no member of the minority should be allowed to speak until a vote of permission for that purpose was first obtained from the majority. It was asked, would the renovation in the public councils have been effected if the freedom of debate had not been permitted at the time when every thing was going to ruin? If such a rule had been proposed in 1798, the nation would have been told, by those who now support this rule, that it was the vital stab to liberty. That which had been wrong yesterday, was wrong to day; that which would have been wrong in the majority could not be right in another. It was also said by several of the supporters of Mr. Livermore's motion, that the rule proposed to be stricken out was at war with political liberty, incompatible with freedom of debate, and indeference of the spirit of the constitution; that majorities, who could not be supposed to be wholly exempt from the infirmities of human nature, might, from the influence of passion, rush headlong into a measure without the least consideration; that rapidity was not so much an object in legislation as wisdom, and a multitude of laws often proved an evil; finally, that this rule at the present time particularly ought not to be adopted, as the House might shortly have to decide the question of peace or war, on which much deliberation undoubtedly would be requisite.

On the other hand it was remarked, in support of the rule, that the evil intended to be guarded against by it, was blended perhaps with some of the best sensations of the human mind, a perseverance in what is deemed right by each, and that the question what was right, could not be decided by any direct standard to which the human mind can resort; that it is the principle of this as of every free government, that the majority shall rule, and, without assuming that the majority is always right, its decision was the best standard to which they could resort; that the majority, being responsible for all measures adopted, ought not to be prevented from acting till too late, by a determined opposition; that if the minority intrudes the right of the majority to govern there should be some rule to prevent this violation of the principles of the government; that the privilege each member possessed of delivering his sentiments, however precious, was not so valuable as the right which each member possessed of acting, and the restriction of this privilege would not be so alarming, as the destruction of the government, which might be the consequence, as the rules of the House at present stood, if the minority were obstinately bent on preventing the House from acting; that although the project of a dumb legislature might have charmed Bonaparte, he never would have had an opportunity to approve any constitution, had it not been for the anarchy, confusion and unrestrained licentiousness which prevailed in the National Convention, and which finally destroyed it—and it was to prevent such anarchy and abuse of the freedom of debate, that this rule had become necessary; that minorities too, were subject to the fallings of mankind, and that passion might operate upon them, when a most urgent law was to be passed, by speaking for six hours at a time, solely to prevent the legislature from acting, from doing that for which they were expressly chosen; that there was no fear of the measures or acts of the majority being veiled in darkness, for supposing (what was very improbable,) an abuse of the rule, the press was open to every man, and could not be restrained; that the idea of the unconstitutionality of such a rule was absurd, for the same mode of argument would prove, that the House had no right to prevent any member from speaking more than twice to the same question, although the Constitution declares, that each House may determine the rules of its proceedings; that experience had shown, that such a rule was necessary to prevent the consumption of the time of the House by a member's speaking four, five, six or eight hours merely for the purpose of spinning out time, and moving to adjourn, calling the yeas and nays on the motion, to give himself time to take breath, and then making frivolous motions for the purpose of speaking still longer on them; that, in order to do the public business, if no such rule was adopted, it would be necessary for the people to select their representatives, not for the strength of their intellect, but for the robustness of their constitutions and their capacity of enduring fatigue; that the abuse of the freedom of debate had become so flagrant as to impede all public business, unless those desirous of doing it would sacrifice their health and perhaps their lives, in scissions of nineteen or twenty hours in length, and these too after a subject had been debated ten or twelve days. It was also said, that it is no new rule; that it had existed in this body, with various modifications, since the commencement of the government until, within two years, when the decision of the House had done it away in practice, though it still remained in the rules; that it had existed in the British Parliament for two centuries; that arguments against a rule or law, drawn from the possible abuse of it, would go to the destruction of all law and government; that this rule had never yet been arbitrarily enforced, and probably never would, as its object was more to remind members of the propriety of conceding a little to their fellow-members and treating them with decorum, than for the purpose of actually putting an end to debate; that no majority would improperly use the rule, because, if they did, they were responsible to the people for it, who would not fail to redress the evil. The novelty in this case was said to be, not that such a rule should have been proposed, but that, after having existed under every administration, it should now be moved to reject it.

The opponents of the rule replied, that this rule was wholly different from the former rules on the subject, as it excluded debate on the previous as well as on the main question. It was also said that the doctrine laid down that the majority should govern

was an arbitrary doctrine. It was natural for majorities to seek to encrease their power. It was true that the people might apply the corrective to abuses of power by the majority; but it might as well be said, after a violation of the right of habeas corpus, had deprived the citizen of his liberty, or after an *ex post facto* law had swept him off, that some twenty years hence the people would apply the corrective. A majority might set out with the best views, but might do acts to produce the most disastrous consequences. The majority always did wrong when it took means to silence opposition and to humble those who oppose them. This had been the doctrine ten years ago of those who advocated this rule, and it was the correct doctrine still. It was said that the argument that the licentiousness of debate had destroyed the government of France, as used in support of this rule, might remind the House of the Hibernian who cut his throat to save his life. The House were called upon to destroy the principles of freedom in order to prevent slavery. If the majority had a right to prevent the minority from expressing their opinions, they had the same right to send them home, to banish them from the capitol.

This debate was continued in a warm, yet desultory manner till 4 o'clock; when on motion of Mr. Tallmadge, the committee rose, 65 to 27, reported progress and obtained leave to sit again.

January 6.

Mr. *Eppes* from the committee of Ways and Means, asked and obtained leave to present a bill to revive and continue in force the first section of an act entitled "An act further to protect the commerce and seamen of the United States against the Barbary powers." [This law laying the duty commonly called the Mediterranean fund, expired on the 1st inst. The bill now reported proposes to continue it till the 4th of March, 1811.] The bill was twice read and committed.

Mr. *Rhea* presented a petition from a number of the inhabitants of the territory of Louisiana, praying to be admitted into the second grade of government. Referred to a select committee.

Mr. *Van Horn* presented the petition of the President and Directors of the Commercial Company of the city of Washington, praying for an act of incorporation; and also the petition of a number of the inhabitants of Washington county, praying authority to make a road to meet a road in the state of Maryland.—These petitions were referred to the committee on the District of Columbia.

Mr. *Holland* moved the following resolution, which was negatived:

"Resolved, That the committee of Commerce and Manufactures be instructed to enquire into the expediency of encouraging the manufacturing of iron by making a donation of a certain portion of land to such persons as may erect iron works within the territories of the U. States."

Mr. *Basset* made the following report: "The committee appointed on that part of the President's message relating to the naval establishment; report, in part, that they found that the frigates now in ordinary was the only part of the subject requiring immediate attention. Besides the motives presented in the Secretary's letter for an immediate reparation of those frigates, the exigent situation of our country furnishes a strong inducement to placing those valuable ships in a state to aid in the protection not of our ports only, but of those numerous exposed situations on the water with which our country abounds. The committee therefore recommend the following resolution:

Resolved, That the hulls of the frigates now in ordinary ought to be immediately repaired, and that dollars out of any money in the Treasury is appropriated for the same."

[Accompanying this report was a letter of the Secretary of the Navy stating his opinion that the frigates in ordinary do require material repairs; that the increasing injury which will result from their remaining in their present situation may be estimated at 30 per cent for the first year. The following estimate of the expences of repairs is also submitted:

* For repairs of vessels now in commission	150,000
* For freight, store rent and all other contingent expences	75,000
* For the repair of frigates now lying in ordinary and keeping the gun-boats that are not in service in a state of preservation, &c.	450,000
* For freight and other contingent expences	100,000]

This report was referred to a committee of the whole.

A letter was also laid on the table from the Secretary of the Navy, transmitting a report on the subject of the "Navy Pension Fund."

PREVIOUS QUESTION.

The House again resolved itself into a committee of the whole on the unfinished business.

Mr. *Livermore's* motion still under consideration—

Messrs. *Blaisdell*, *Gardener* and *Bacon* supported, and Messrs. *Ross* and *M'Kee* opposed it.

On the question being taken the motion was negatived 36 to 47.

Mr. *Quincy* moved to amend the rule by striking out some words and inserting others, so as to make the rule similar to that which has heretofore existed on this subject; Mr. *Rhea* called for a division of the question; and the house refused to strike out the words, 59 to 36.

Mr. *Bacon* moved to amend the rule by adding at the end of it the words "on the main question," so as to allow the previous question to be debated.—Negatived, Ayes 22.

Mr. *Quincy* moved to amend it by adding the words "But the previous question shall never be put until every member who chuses to speak shall have spoken once on the main question."

Mr. *Quincy* and Mr. *Tallmadge* supported this motion, and Mr. *Rhea* and Mr. *W. Alston* opposed it.

Before the question was taken, on motion of Mr. *Smilie*, the Committee rose, reported progress and obtained leave to sit again.

And the house adjourned.