27th Congress, 2d Session. Rep. No. 909. Ho. of Reps.

APPORTIONMENT BILL.

July 16, 1842.
Read, and laid upon the table.

Mr. Adams, from the Select Committee to which the subject had been referred, submitted the following

REPORT:

The Select Committee to whom was referred the message of the President of the United States of the 25th instant, announcing to the House that he had approved and signed an act which originated in this House, entitled "An act for an apportionment of Representatives among the several States according to the sixth census," and had caused the same to be deposited in the office of the Secretary of State, accompanied by an exposition of his reasons for giving to it his sanction," have deemed it their duty to confine their consideration exclusively to the subject referred to them by the House.

Reason, justice, and the religion of holy writ, enjoin with equal and concurring authority upon man the most anxious and scrupulous care in the composition and faithful custody of the rule of conduct prescribed to him in the form of law—the sacred volume of divine inspiration closes by pronouncing the most awful of curses upon every man who shall add to or take away from its words. The Constitution and laws of the United States manifest a solicitude scarcely less intense for the accuracy and authenticity of the composition of the laws. Without referring to the fact that no proposition for the enactment of a law can be effected by Congress without passing through two separate branches of the Legislature, and, by the rules for transacting business, without being read six several times on as many different days, and requiring, besides, the action of the Chief Executive Magistrate, to give it validity, the manner in which the Constitution prescribes that Executive action is itself provided with a minuteness of exposition evidently intended to exclude the possibility of all intrusion or diminution. By conferring on the President the power of approving and signing the acts of Congress before they can acquire the sanctity of law, and the further authority of objecting, for reasons assigned, to their enactment, the Constitution, with equal conciseness and precision, has prescribed three several modes of action, required of the President, in the exercise of this prerogative, upon the acts presented to him having passed both Houses, been examined carefully, and reported by a Joint Committee of Enrolled Bills, signed by the Speaker of the House and the President of the Senate, in presence of their respective Houses—the Constitution enjoins, first, "that if he approve, he shall sign it." That is all his power—that is all his duty. No power is given him to alter, to amend, to comment, or to assign reasons

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for the performance of his duty. His signature is the exclusive evidence admitted by the Constitution of his approval; and all addition of extraneous matter can, in the opinion of the committee, be regarded in no other light than a defacement of the public records and archives. Secondly, "but if not," that is, if he do approve the act, "he shall return it, *with his objections*, to the House in which it shall have originated, who shall enter the objections at large on their Journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a *law*. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the Journal of each House, respectively." And in this case, the duty of the President is to return the bill to the House where it originated, with his objections to its becoming a law. The bill passes out of his possession, and never returns to it. His reasons form no part of the bill, and no instance has occurred, under the Constitution of the United States, of a bill to which the President has objected, becoming a law.

"*Thirdly*. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless Congress, by their adjournment, prevent its return, in which case it shall not be a law." The same provisions are repeated for every order, resolution, or vote, to which the concurrence of the Senate and House of Representatives may be necessary, (except on a question of adjournment,) before they shall take effect. Such are the minute, it might almost be said the microscopic, provisions of the Constitution of the United States, to preserve pure and inviolate from all addition or diminution the text of the law; and the same cautious and prudent spirit was equally manifested by the first Congress of the United States, in providing for the preservation and safe keeping of the public acts and records which constitute the statute laws of this Union.

At the first session of the first Congress of the United States, organized under this Constitution, a department of the Government was instituted for the express purpose of providing for the safe keeping of the acts, records, and seal of the United States. It is so declared expressly in the title of the act instituting the Department of State.

Immediately after the organization of Congress under the present Constitution, one of their first acts was to institute an Executive department, denominated the Department of Foreign Affairs. Such a department had existed under the old organization of the Confederation. But the Congress of the Confederation had no legislative powers, and therefore no laws to keep and preserve. At the very same session, therefore, of the first Congress of the United States, and within two months after the establishment of the Department of Foreign Affairs, without repealing that act, on the 15th of September, 1789, Congress passed another act to provide for the safe keeping of the acts, records, and seal of the United States, and for other purposes, by the first section of which it was provided that the Executive department denominated the Department of Foreign Affairs should thereafter be denominated the Department of State, and that the principal officer therein should be called the Secretary of State.

And by the 2d section of this act, in addition to the duties required of

the Secretary by the act establishing the Department of Foreign Affairs, it is provided, "that whenever a bill, order, resolution, or vote of the Senate and House of Representatives, *having been approved and signed* by the President of the United States, or, *not* having been returned by him with his objections, shall become a law, or take effect, it shall forthwith thereafter be received *by the said Secretary from the President;* and whenever a bill, order, resolution, or vote, shall be returned by the President, with his objections, and shall, on being reconsidered, be agreed to be passed, and be approved by two-thirds of both Houses of Congress, and thereby become a law, or take effect, it shall in such case be received by the said Secretary from the President of the Senate or the Speaker of the House of Representatives, in whichsoever House it shall have been so approved; and the said Secretary shall, as soon as conveniently may be after he shall receive the same, cause every such law, order, resolution, and vote, to be published in at least three of the public newspapers printed within the United States, and two printed copies, duly authenticated, to be sent to the Executive authority of each State; and he shall carefully preserve the originals, and shall cause the same to be recorded in books to be provided for the purpose;" the latter part of which provisions have since been repealed.

It will be observed that all the provisions of this law are adapted with the most scrupulous accuracy to the three several modes of action prescribed to the President by the Constitution of the United States in the enactment of the laws; and they are all equally marked by the constant and unremitted assiduity to exclude from all possible intrusion of extraneous or spurious matter, the composition of the laws.

But in the message of the President to this House, and by the House referred to the committee, he has informed the House not only that he had approved and signed the apportionment bill, but that he had caused the same to be *deposited in the office of the Secretary of State*, accompanied by an exposition of his reasons for giving to it his sanction.

It is remarkable that, in this annunciation of what he has done with the apportionment act, there is a departure not only from the language but from the substance of the law prescribing to him his duties in this respect. The law requires that, if the President *approve* an act presented to him, after having passed both Houses of Congress, *he shall sign it*, and that, *forthwith*, the Secretary of State shall *receive it* from the President; and it is among the duties of the Secretary of State thereafter *carefully to preserve* the originals, and to cause the same to be published. The functions both of the President and Secretary of State are *personal;* and the motives of the Legislature in making them so are obviously to preserve inviolate the purity of the text of the law, and to guard it from all possible interpolation or defacement. The same personal duty is prescribed in the case of an act which, after having been objected to by the President, shall, notwithstanding his objections, have become a law. In such case, the law requires that the act should be *received* by the Secretary of State from the President of the Senate, or from the Speaker of the House of Representatives, in whichsoever House it shall have been so approved. The principle of all our legislation, regarding the composition of the laws, is not to leave the instrument containing the law—no, not one moment—out of the custody of a highly responsible officer of the Government.

Now, the President, in causing the apportionment act to be deposited *in*

the office of the Secretary of State, did not perform the duty enjoined upon him by the letter of the law, which was, that the Secretary of State should *receive* it from him. The deposite in the office might be made in the absence of the Secretary, and weeks might elapse before he could receive it, or be in any manner responsible for its contents. During all that time it would be liable to interpolations, additions, diminutions, totally changing its character and perverting its legislative effect, without responsibility of any one individual for the change.

In the ordinary course of the legislation of this Union, perhaps this circumstance might not require the notice of this House. Perhaps, in the practical administration of the Executive power, the usual mode by which the Secretary of State *receives* from the President the rolls of parchment on which the laws are engrossed is by the President's sending them to the office of the Department. Such an usage, though not altogether conformable to the spirit of the law, might be overlooked so long as no public inconvenience should have resulted from it. But in this case the President informs the House that, in causing the apportionment act to be deposited in the office of the Secretary of State, he has superadded to it an exposition of his reasons for giving to it his sanction; and he withholds from the House the information what those reasons are. Here, then, is superadded to the law enacted by the sanction of both Houses of Congress, and the signature of the President *without* objection, an exposition of his *reasons* for performing an act which the Constitution of the United States peremptorily commands him to perform, and for refusing to perform which, approving it as he did, no earthly reason could have justified him. What, then, could have been the motive or purpose of annexing to a law of the land, enacted in all the forms of the Constitution, an extraneous interpolation of his reasons for performing *his* duty in the enactment of the law? What the motive or purpose of an attempt to make *his reasons* a part of the law, without even communicating those reasons to the Legislature which enacted the law?

The Secretary of State is required, among the duties of his office, to cause to be published, in the newspapers and in pamphlets, the laws received by him from the President. Is this exposition of reasons, never communicated to Congress, to be published with the law which the Secretary received with it? Is it to form a part of the law of the land? If it is, in what does it differ from the principle that the proclamation of the President supersedes and annuls the laws of Congress. If it be not the law of the land, of what possible use can it be; what possible claim can it have to be deposited with the laws in the public archives of the land? What right have the reasons of the President for signing an act of Congress to be deposited among the laws, to which the reasons of every member of either House of Congress for voting for the same bill are not equally entitled? And if the exposition of the reasons of the President for signing *one* act of Congress are entitled to be deposited with the Secretary of State in company with the law, what principle is there which will not apply in every case of a bill signed by the President? The reasons of the President for signing a bill may be various and complicated. They may rest in part or entirely upon a construction of the provisions of the act, peculiar to the President, and directly opposed to that of every member of both Houses of Congress who passed the act. Then it comes to the principle

that the whole statutory powers of Congress are subordinate to the clandestine constructive ratiocination of the President.

The committee can find in the Constitution and laws of the United States no authority given to the President for depositing in the Department of State an exposition of his reasons for signing an act of Congress made by his signature a law, and most especially none for making the deposite in company with the law. No such power is expressly conferred by the Constitution; none such is necessary or proper for giving effect to any other power expressly granted to him. They believe it to be a power the toleration of which would be of the most dangerous and pernicious tendency; and they deem it the duty of the House to arrest and resist this first attempt to exercise it. They have reason to believe that, unless disavowed and discountenanced in this first example, its consequences may contribute to prostrate in the dust the authority of the very law which the President has approved with the accompaniment of this most extraordinary appendage, and to introduce a practice which would transfer the legislative power of Congress itself to the arbitrary will of the Executive.

The deposite in the Department of State, by the President, of an exposition of his reasons for signing a law, to accompany the law itself, has been hitherto without example. One instance has indeed occurred, on the 31st of May, 1830, when President Jackson, within an hour before the close of that session of Congress, sent to this House a message informing them that he had approved and signed a bill making appropriations for examinations and surveys, and also for certain works of internal improvement; but that, as the phraseology of the section which appropriated the sum of eight thousand dollars for the road from Detroit to Chicago might be *construed* to authorize the application for the continuance of the road beyond the limits of the Territory of Michigan, he desired to be understood as having approved that bill with the understanding that the road authorized by that section was not to be extended beyond the limits of the said Territory.

This was a simple message to the House, informing them what construction he gave to one section of a law which he had approved and signed; but not informing them that he had added any thing to his signature upon the bill itself. The most exceptionable part of this transaction was therefore unknown to the House, and they *could* take no action upon it. They laid the message on the table.

It is indeed true that the construction which the President announced to the House he had given, in approving and signing the bill, to that section which appropriated money for a road from Detroit to Chicago, was directly in the face of the letter of the law, and of the understanding with which it had been passed by both Houses of Congress. No court of justice, without violating all the rules of construction observed in judicial tribunals, could have sanctioned that construction. But that part of the act was to be executed by the President himself. By the partial and imperfect execution of it, arresting the road at the limits of the Territory instead of extending it to Chicago, he defeated the intention of the Legislature; but he had a conscientious constitutional scruple to sustain him. There was no appeal from his arbitrary decision. The completion of the road, directed by the solemn act of the Legislature, was prevented by the will of the President, regulated by *his* construction of the law; and the internal

improvement of the country, by the power of the national Legislature, has from that day been suppressed and nullified.

The real character of the message of President Jackson was an objection to that section of the bill which made the appropriation for the road from Detroit to Chicago; and so it was understood at the time. It was, in substance, an objection to one section of the bill, and, in form, an approval of the bill.

The committee are of opinion that this form of proceeding was unwarranted by the Constitution; but the President, in that case, set an example far more dangerous and unwarrantable, without giving any notice of it to the House. Immediately over his signature to the bill he made on the parchment on which the bill was engrossed an interpolation in the following words: "I approve this bill, and ask a reference to my communication to Congress of this date in relation thereto." And in this condition, with this extraneous matter entered upon this act, referring to another document not published with the law, and never acted upon by either House of Congress, this act was published by the Secretary of State, and with this unwarranted statement by the President upon its face, forming, to all appearance, a part of the law.

The exposition of the President's reasons for signing the apportionment bill has hitherto not been published with the law. The precedent alleged in justification of the President's act on this occasion has not, in this case, been followed by him. The law has been published by authority of the Secretary of State, without the exposition of the President's reasons for signing it, which he had caused to be deposited in the office of the Secretary, with the law. And this fact leaves it open to conjecture still more painful, what lawful and honorable purpose could be answered by the deposite in the archives of State of an *argument* for affixing his signature to an act which he approved.

An *argument* for the performance of an indispensable duty would seem to be, at least, a work of idle supererogation. As well might the President have caused to be deposited in the Department of State an exposition of his reasons for performing the most sacred of his obligations as a citizen or as a man, as he could for assigning reasons to record his fulfilment of the obligation which he could not, without violation of his solemn oath, have omitted to do.

A resolution of this House has at length drawn forth from the Department of State an authenticated copy of this exposition of reasons, but, the committee are constrained to say, without producing so much as a plausible reason for the deposite of those reasons in the office of the Department with the law.

The President appears to be apprehensive that his motives for signing it may be misunderstood, or that his opinions may be liable to be misconstrued, or quoted hereafter erroneously as a precedent; and he therefore feels it due to himself to say that, in approving the bill, he proceeded not so much on his own opinion, either of its constitutionality or policy, as from respect to the declared will of the two Houses of Congress.

The entry upon the bill is, "Approved: John Tyler;" and that entry makes it the law of the land; and then, by a private note, deposited with the law in the Department of State, the same hand which, under the sacred obligation of an official oath, has written the word "*approved*," and added the sign manual of his name, feels it due to himself to declare that the bill is *not* approved, that he doubts both its constitutionality and its policy, and

that he signs it only in deference to the declared *will* of both Houses of Congress, not from assent to their reasons, but in submission to their *will*.

And he feels it due to himself to say this—first, that his motives for signing it may be rightly understood; secondly, that his opinions may not be liable to be misunderstood; or thirdly, quoted hereafter erroneously as a precedent. The motives of a President of the United States for signing an act of Congress can be no other than because he approves it, and because, in that event, the Constitution enjoins it upon him to sign it as a duty, which he has sworn to perform, and with which he cannot dispense.

But no; in the present case the President feels it due to himself to say that his motives for signing the bill were not because he approved it, or because it was made by the Constitution his duty to sign it, but to prove his submission to the will of Congress. He feels it due also to himself to guard against the liability of his opinions to misconstruction, or to be quoted hereafter erroneously as a precedent. His signature to the bill, preceded by the word "*approved*," taken in connexion with the duties prescribed to the President of the United States by the Constitution, certainly was liable to the construction that his opinions were favorable to the bill. They were indeed liable to no other construction respectful to him, or trustful to his honor and sincerity; nor can there be a doubt that they would have been quoted hereafter as a precedent. No man living could have imagined that the word "*approved*" could be construed to mean either doubt or obsequious submission to the will of others; and it is with extreme regret that the committee see, in the President's exposition of his reasons for signing an act of Congress, the open avowal that, in his vocabalary, used in the performance of one of the most solemn and sacred of his duties, the word "*approved*" means not approval, but doubt; not the expression of his own opinions, but mere obsequiousness to the will of Congress.

The President alleges that, in yielding his doubts to the matured opinion of Congress, he has followed the advice of the first Secretary of State to the first President of the United States, and the example set by that illustrious citizen upon a memorable occasion.

But the first Secretary of State never advised the first President, in yielding his *doubts* by his signature to *record* them with it in self-contradiction; nor did the first President of the United States ever sanction, by his example, such recorded duplicity.

In adverting to the infinitely dangerous tendency of such an example, the committee perceive that, if once acquiesced in by the Legislature, it would countenance and introduce an Executive encroachment on their exclusive functions, little short of transferring the legislative power itself from the two Houses of Congress to the President, and of encroaching not less upon the exclusive functions of the judicial courts.

If the President is justified in annexing to his signature and declared approval of one act of Congress, presented to him for approval, an exposition of reasons, ostensibly for signing, but really against it, he may do the same with any or every other act of the Legislature so presented to him. He may announce *his* construction of any or every section of the bill, directly adverse to the construction given to it by all parties in the Legislature who enacted it. Such is believed to have been in the present instance the case. The reasons of the President then become a running commentary upon the law, against its execution according to the intention of the

Legislature, and forestalling the appropriate action of the Judicial tribunals in expounding it. A more fatal expedient for breaking down the constitutional barriers between Legislative, Executive, and Judicial powers, could scarcely be devised. Under its operation, the law itself, instead of a rule of conduct prescribed for the obedience of the people, would become a mere record of the discordant opinions and conflicting wills of its makers.

The President states that, while a member of either branch of the Legislature, he deemed it his duty to vote against every law of the constitutionality of which he entertained a doubt; but that, as President of the United States, he may yield his doubts in deference to the solemnly pronounced opinion of the Representatives of the people and of the States.

Without inquiring into the soundness of this distinction, the committee approve entirely the principle, that a President of the United States needs no apology for sacrificing the mere pride of individual opinion, amounting only to a doubt, in deference to the honest and deliberate judgment of others; they deem such a sacrifice not only to be his right, but his duty. The bias of a fairly balanced mind may well be turned by the sympathies of congenial rectitude and the conscious communion of honorable ends. But the committee cannot equally approve the principle of yielding the doubt, and yet retaining it; still less can they acquiesce in the integrity of coupling with the renunciation of the doubt a record of its continued existence.

The President announces that one of his reasons for entertaining deep and strong doubts of the constitutionality of the law which he has approved and signed is, that it purports to be mandatory on the States to form districts for the choice of Representatives in single districts.

The committee believe this to be by far the most important and most useful provision of the act. They believe, indeed, the establishment of the principle absolutely indispensable to the preservation of this Union. The representation of the people by single districts is undoubtedly the *only* mode by which the principle of representation, in proportion to *numbers*, can be carried into execution. The provision of the Constitution is, that the representatives shall not exceed *one* for every thirty thousand of federal numbers, and every act of apportionment has necessarily prescribed *one* member for every addition of the common multiple within each of the several States. A more unequal mode of assembling a representation of the people in a deliberative body could not easily be contrived than that of one portion chosen by a general ticket throughout the State, another portion by single districts, and a third portion partly by single and partly by double, treble, and quadruple districts. This forms, in the mass, a representation not of *one* representative for the common standard number throughout the whole Union, but of States, and cities, and sectional divisions, in knots and clusters of population, of different dimensions and proportions, more likely to be governed by the spirit of party than of patriotism. At present, six of the smaller States acquire an undue share of locally concentrated power in the House, by general ticket elections, stifling the voice and smothering the opinions of minorities nearly equal to half the people of the State, thus disfranchised by the overbearing insolence of a majority, always meager, and as it grows leaner growing more inexorable and oppressive. The larger States have hitherto passed over with little notice this practical iniquity, by which the State of New Hampshire, with five members, preponderates over the State of New York, with

forty. But it is in the nature of things impossible that this should be suffered to continue long. The manner of election for the members of this House must be uniform. The general ticket or the single district must be the common rule for all; and if the smaller States will insist upon sending members to this House all of one mind, New York, or Pennsylvania, or Ohio, or all three together, will, ere long, teach them by other results the arithmetical combination of concentrated numbers.

Should the general ticket system universally prevail, it is obvious that the representation in this House will entirely change its character, from a representation of the people to a representation of States, and transform the constitutional Government of the United States into a mere confederation like that which, fifty-four years ago, fell to pieces for the want of ligatures to hold it together.

It is in the spirit of this dissolution of the Constitution, and consequently of the Union, that the President records his surrendered doubts of the constitutionality of the apportionment act, because it purports to be *mandatory* on the States to form districts for the choice of Representatives to Congress in single districts. But what schoolboy does not know that it is the vital property of *law* to be *mandatory*—that what is not mandatory cannot be law? The very definition of municipal law, by the great jurist of England, is a rule of civil conduct, prescribed by the supreme power in the State, *commanding* what is right, and prohibiting what is wrong. It is equally clear that the existence of liberty herself, in any community of men, is identical with the mandatory character of the law; and the only distinction between a free and an arbitrary Government is, that one is a Government of laws, and the other a Government of men.

Is the objection of the President, that this mandatory character of the law is made applicable to the action of the sovereign *States?* But the law derives its mandatory authority from the Constitution itself, which the States have bound themselves, by the most solemn obligations, to obey. The command is in the Constitution, which has in express terms vested in Congress the power exercised in this section of the act.

The President admits that the power of Congress, by law, to alter State regulations respecting the manner of holding elections for Representatives, is clear; but he has felt deep and strong doubts of the power to command the States to make new regulations, or alter their existing regulations.

This objection would invalidate every apportionment act which has been prescribed by Congress during the existence of this Government. Every new apportionment act not only annuls the regulations provided, by the laws of the several States, to hold elections of Representatives under the preceding apportionment, but is mandatory to the States to provide regulations for holding the elections within the States, conformably to the new apportionment law enacted by Congress. In every successive apportionment law, the number of Representatives in this House which many of the States have been entitled to send during the preceding ten years is increased or diminished; and the numerous State Legislatures which have been so long waiting for the legislation of Congress at this time and on this subject, the special extraordinary sessions which more than one of those Legislatures have been under the necessity of holding, have all been caused by their indispensable duty to provide regulations for giving effect to the mandatory injunctions of the congressional law.

The objection to the mandatory character of the law has an aspect so

extraordinary as to be somewhat whimsical, when we consider that the power in Congress, admitted by the President to be clear, of districting the State by its own authority, is much heavier and more searching in its operation than that which he considers as so questionable. The election of Representatives to the national Legislature is not a burden, but a precious privilege. The geographical division of the territory of the State, according to the number of the Representatives allowed to the State in this House, is an operation obviously better suited to the action of the local Legislature than to that of the assembly representing the whole Union. The assignment of that operation, therefore, to the State Legislatures, though mandatory in form, is in substance a concession of power; and it is strange, passing strange, to find even the most zealous and most jealous vindicator of State rights complaining of an investment of authority in the State as a grievous usurpation of authority of Congress.

The exposition of reasons *for approving and signing the bill* has a still more singular appearance of inconsistency, by the unhesitating intimation that these questions of the constitutionality of the law, and of its mandatory character, are brooding among the rancorous and vindictive passions of inflamed and inflammatory partisans, reserved for exasperated altercation at the threshold of the 28th Congress. It would seem as if, in the foresight, if not in the aspirations of the President, sufficient is not unto the day the evil thereof.

This is not one of those laws the constitutionality of which will have the benefit of a fair and impartial decision by an independent judicial tribunal. This House is made, by the Constitution, exclusively the judge of the elections, returns, and qualifications of its own members. The questions of construction and of *constitutionality*, stimulated by those surrendered and yet recorded doubts, will be wrath treasured up for the day of wrath, to inflame and convulse the deliberations of this House at the first organization of this House for the next Congress—the Congress, be it remembered, upon the House of Representatives in which will devolve the duty of electing the President of the United States for four years from the 3d of March, 1845, if, as is too much to be apprehended, an absolute majority of the votes in the electoral colleges should fail of being secured.

The private and personal interest of the President in the organization of the House of Representatives of the next Congress suggests motives on his part for desiring to influence that organization in the direction of his individual interest, which may account for this attempt to countenance and encourage a spirit, already too apparent on the part of more than one of the States, to set at defiance the will of the whole Union, expressed beyond all possible cavil or honest controversy in this provision of the apportionment law, and to force upon the House of Representatives a representation chosen by general ticket from those States, while the representation from all the other States will, in obedience to the law, be chosen by single districts.

It is self-evident that, in the event of such a conflict at the organization of the next House of Representatives, the local interest and comparative weight of the few States electing by general ticket will be in direct opposition to the interest and relative weight of *all* the States represented by single districts. If it be expected that political sympathies and party discipline will be sufficiently strong to prevail over the permanent, indisputable, and abiding interests of the large and populous States, and induce

their representatives to indulge the small States with a general ticket representation, at the expense of the relative weight and influence of their own constituents, the result can be no other than to introduce inequality of privilege between the constituent confederates of this Union; and the inevitable consequence of a continued practical exercise of such inequality will be, mutual irritation, alienation, and disgust, till the large States will adopt the general district ticket representation themselves, and merge in the flood of numbers all the influence of the smaller States.

Similar considerations, the President states, have operated with him in regard to the representation of fractions exceeding thirty thousand.

But his treatment of this constitutional doubt is strikingly different from that which he bestows on the doubt with regard to the mandatory character of the section prescribing election by single districts. The argument of the President on the first doubt is against the provision in the law, and consequently against the law; the argument on the second doubt is in favor of the bill. In this case, the doubt had existed from the foundation of the Government; it had always hitherto been found insurmountable. But now, the President, who had heretofore voted against it as unconstitutional, finds it recommending itself as approaching nearer to constitutional equality than any common divisor to the entire population of each State, which had heretofore been deemed indispensable. As there is no prospect of any practical opposition to the full execution of this provision of the law, an exposition of reasons for approving and signing the bill containing it appears to the committee destitute itself not only of reason, but even of plausible pretence.

The President concludes by observing that, in approving the bill, he flatters himself that a disposition will be perceived on his part to concede to the opinions of Congress in a matter which may conduce to the good of the country and the stability of its institutions, upon which his own opinion is not clear and decided. This repeated profession of deference for the opinions of Congress would be received with more respectful acceptance, but for cotemporaneous unofficial expositions of the writer's *real* sentiments towards the Legislature of the Union, addressed not to them, but to private individuals and convivial assemblies, and by them paraded forth in the public journals of the daily press to the world. It would also be better entitled to the credit of sincerity, but for the countervailing compliment to the respectability of opinion against the constitutionality of the bill, thereby instigating and fomenting that factious resistance to the execution of the most important provision of the law, of which the trumpet has been already sounded in two of the States, and which threatens a conflict at the organization of this House in the next Congress, to which no friend to the peace and harmony of the Union can look forward but with melancholy foreboding.

The committee consider the act of the President, notified by him to the House of Representatives in his message of the 25th ultimo, as unauthorized by the Constitution and laws of the United States, pernicious in its immediate operation, and imminently dangerous in its tendencies. They believe it to be the duty of the House to protest against it, and to place upon their journal an earnest remonstrance against its ever being again repeated. They report, therefore, the following resolution:

Resolved, That the House of Representatives consider the act of the President of the United States, notified to them by his message of the 25th

ultimo, viz : his causing to be deposited in the office of the Secretary of State, with the act of Congress entitled "An act for an apportionment of Representatives among the several States according to the sixth census," approved and signed by him, an exposition of his reasons for giving to the said act his sanction, as unwarranted by the Constitution and laws of the United States, injurious to the public interest, and of evil example for the future; and this House do hereby solemnly protest against the said act of the President, and against its ever being repeated or adduced as a precedent hereafter.