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EXPENDITURES IN THE NAVY DEPARTMENT.

LETTER

OF THE

SECRETARY OF THE NAVY,

RELATIVE TO

Naval contracts and expenditures in the Navy Department.

JANUARY 11, 1860.—Ordered to be printed.

NAVY DEPARTMENT, *June* 11, 1860.

SIR: I have had the honor to receive from you, as chairman of the Committee on Expenditures in the Navy Department, a copy of certain resolutions introduced into the House on the 19th of March last, in relation to expenditures of money in that department, with a suggestion that the committee will be pleased to receive a communication from me. I have nothing to say on the subjects referred to in those resolutions beyond what I have already said in an official communication which I addressed to a former committee more than a year ago; but I desire to say a few words in regard to the proceeding originated in the present Congress.

The Hon. John Sherman, a member of the House of Representatives from Ohio, introduced a resolution at the last session of Congress authorizing an investigation of certain naval expenditures therein referred to. Under this resolution a committee was appointed, of which Mr. Sherman was chairman, consisting of three opposition and two administration members. The investigation was prosecuted by Mr. Sherman upon *ex parte* evidence; a great number of witnesses were examined, and a report made filling a volume of 1,200 pages. When the examination was concluded, Mr. Sherman presented his resolutions to the committee, and they were rejected, and a report and resolutions of an opposite character adopted, vindicating the President of the United States from every imputation, and declaring that nothing had been disclosed which could affect the personal or official integrity of the Secretary of the Navy. Thus foiled and defeated by his own committee, who had seen and heard the witnesses brought forward by him, Mr. Sherman has now introduced into the present

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House of Representatives the self-same resolutions which had been thus rejected, has procured them to be referred to the Committee on Naval Expenditures, of which, though chairman of the Committee of Ways and Means, he was found to be a member; and now, without proposing any further testimony, he seeks, through the instrumentality of the present committee, which has neither seen nor heard a witness on the subject, to obtain from the House of Representatives a vote of censure upon the President of the United States and upon the Secretary of the Navy for the manner in which they have exercised their official discretion in the performance of their official duties. It must be obvious to every one, upon the mere inspection of these resolutions, that it was not the object of the author of them in introducing them into the present House of Representatives to institute an investigation into the state of the departments for purposes of legislative reform. Nor was it his object to institute an inquiry to aid the House in any way in the exercise of its legislative functions. He has not sought to invest the committee with power to send for persons or papers. He has not proposed to call witnesses to prosecute an investigation into facts. He has not taken the first step to shed any new light upon the subjects referred to in these resolutions. It is equally obvious that it was not the object of the author of them that the House should exercise its constitutional power of impeachment. They show upon their face that no intention or purpose exists to go to the Senate as a high court of impeachment with any presentment of delinquincy. On the contrary, from every act done, and from every act omitted to be done, it appears conclusively that the proceeding in the present Congress has no reference whatever to any proposed exercise of the power of impeachment or of legislation, but is designed solely and exclusively for the purpose of inflicting a vote of censure upon the President of the United States and the Secretary of the Navy for the exercise of that official discretion which the Constitution and laws have conferred upon them, and made it their duty to exercise. Unless we assume that the whole object of this proceeding is mere partisanship, under the cloak of official forms and sheltered by official irresponsibility, there is no other possible purpose or object of this unprecedented proceeding than that to which I have alluded.

Is it a legitimate or constitutional proceeding? The powers of this government are vested in three distinct and independent departments—the legislative, executive, and judicial. The legislative power is vested in Congress, the executive in the President, and the judicial in the Supreme Court and such inferior courts as Congress from time to time may establish. Each department is independent of the others, except in certain cases specifically defined by the Constitution. The legislative department is divided into two branches, the Senate and the House of Representatives, the concurrence of both being necessary to make a law, and each is therefore an absolute check upon the other; and the President being required to participate in legislation, and at times to interpose his veto, is a check upon both. The executive power is checked by the constitutional provision requiring the advice and consent of the Senate in cases of treaties and appointments. The executive and judicial departments are subjected to the power con-

ferred on the House of Representatives to present, and upon the Senate to try, all cases of impeachment of officers in those departments. With these limited exceptions, the three great departments of the government are absolutely independent of each other. And this independence was designed by the framers of the Constitution from extreme jealousy of power, to guard against its concentration in any one department by the resistance of the others. The Senate can only exercise the legislative power and that portion of executive and judicial power thus conferred upon it. The House of Representatives can only exercise the legislative power and the power of presentment before the Senate as a high court of impeachment thus conferred upon it. Each may institute an inquiry or investigation to aid it in the exercise of these powers, and each may protect its own sittings, elect and dismiss its own officers, and try, condemn, censure, and expel its own members. Thus far they have power to go; and when they proceed one step further than to exercise the plain powers thus conferred upon them by the Constitution, they violate that sacred charter which they are bound by the highest of all obligations to support. It is difficult to believe that the mover of these resolutions can entertain the remotest expectation that the House of Representatives will usurp the special judicial power which is exclusively conferred upon the Senate, or will attempt to arraign at its own bar and to try and condemn any executive or judicial officer of this government, or to inflict a vote of censure or any other punishment upon any such officer, without a trial and without an opportunity to be confronted by his accuser and by the witnesses against him, and to be heard in his own defence. It is beyond the utmost stretch of human charity or credulity to suppose that the author of these resolutions, or any one who has directed the least attention to the distribution of the powers of this government, can for a moment entertain the belief that the House of Representatives has any power to inflict a punishment of the most trivial kind, and, least of all, the grave punishment of a vote of rebuke and censure upon the President of the United States, the heads of departments, the judges of the Supreme Court, or of any inferior court, or upon any officer whatever belonging to the executive or judicial departments, for assumed official misdoing, or the wrong exercise of official discretion. These officers are, many of them, intrusted with great powers, and often with a large discretion, which they are bound to exercise according to their own best judgment; and the framers of the Constitution did not see fit to make them responsible for it to that body, which, however important and exalted, is, from its nature and constitution, of all others, least fitted for the exercise of judicial functions—the popular branch of Congress. Such an assumption of power over all the officers of this government would entirely change the character of the House of Representatives, and might, with equal reason and propriety, embrace within its scope the members of the Senate. It would be a gross and manifest usurpation, in clear and palpable violation of the Constitution, I will not say unexampled, for we have had an alien and sedition law, but *unparalleled* in the history of the country.

You will not, therefore, expect me, in any such proceeding as this,

to come before you to defend any one against *ex parte* evidence taken before a defunct committee of the last Congress; to defend the President for receiving by mail and referring in the usual course of business, or myself for receiving a letter partially of a political character, on the subject of a contract, which was rightfully awarded, without any regard to it, to the lowest bidder, in accordance with the unanimous opinion of a board of engineers who had no knowledge of its existence; to defend myself for making an advantageous purchase of necessary government supplies at the lowest price offered when I had an unquestionable right to do so; to defend myself for making appointments upon the highest recommendations, upon the best information that could be obtained, and upon the best judgment I could form; to defend myself for taking the opinion of an experienced engineer of the highest character, with the reasons for his opinion, where I was called upon to give it only the weight which was due to it for the reasons he assigned; or otherwise to defend myself for the manner in which I have exercised the discretionary powers which it was my duty to exercise according to my best judgment in the responsible position which I occupy.

To all this and much more I am ready to respond, if those who have the power shall see fit to give me an opportunity in any constitutional way.

I am, sir, very respectfully, your obedient servant,

ISAAC TOUCEY,
Secretary of the Navy.

Hon. ROBERT HATTON,
Chairman of the House Committee on Naval Expenditures.