

the liberties of a free people. These instructions are to be given in evidence on any suit against the officer for his justification and defence. If the officer is bound to obey those instructions, the courts must necessarily be bound to receive them as evidence in justification of the Collector—the consequence necessarily follows that they must controul the courts of justice.

To support the principle of this section of the bill, the gentleman from Virginia has read to us a law of the United States passed in June, 1794, authorising the President to lay an embargo, provide the necessary regulations for carrying it into effect, and for revoking the same. † Whether I did or did not vote for that law I do not now recollect; the yeas and nays were not taken. But I have no hesitation in saying, that with my present impressions, I should under like circumstances, vote for such a law, either under the then administration or the present. We then had disputes with the British government, which, unless settled by the negotiation then pending, must terminate in war. We had adopted every defensive measure in our power, and Congress were about to adjourn, and wait the issue of the negotiation. If unsuccessful it might become necessary suddenly to stop our vessels in our harbors, previous to a declaration of war. Congress could not be convened, so as to pass a law, much short of two months. It resulted therefore, as a necessary consequence, that the power must be lodged some where; and where more properly than with the chief Magistrate? In my opinion, the power to lay an embargo is not given to Congress by that clause of the constitution which gives the power to regulate commerce; it is in direct hostility to commerce. The power to lay an embargo follows as a necessary appendage to the power of making war. The case might happen when even the commanding officer of the army might be justified in laying an embargo on all ships and vessels in certain harbors and rivers, when necessary to aid a military expedition then on foot. The Parliament of England have the sole power to regulate commerce; the King has the power of declaring war and of laying an embargo. But this is a power to be exercised with great caution; it is a measure temporary in its nature. The present is, I believe, the first experiment of a permanent embargo. It is a power, when given to the Executive, which is to be carefully guarded; as was the law in 1794; by which the President was not to lay an embargo when Congress were in session; nor that should continue in force but for a short time after Congress should convene.

To enable us to form a correct opinion in this case, it is proper to inquire what is an EMBARGO. An embargo, in its nature and legitimate import, is most emphatically a measure, not effecting the internal policy of a country, but operating upon the water, in relation to ships and vessels. Its proper element is the *water*, not the *land*: but Congress, during the last session and the present, have been labouring to convert this *water fowl* into a *land turtle*, which might creep into the inclosure of every man in the nation. Upon these principles, an embargo law, or resolution, would be very short, as was that in 1794. But in the present case, Congress have accumulated