



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

DOCUMENTS

The Senate Debate on the Breckinridge Bill for the Government of Louisiana, 1804

SOON after the ratification of the treaty by which Louisiana was acquired from France, steps were taken to provide a government for that territory. The request of Jefferson that Congress make "such temporary provisions for the preservation, in the meanwhile, of order and tranquillity in the country, as the case may require",¹ led to the passage of a bill, which became law October 31, 1803, placing the administration of the territory, until further action by Congress, in the hands of the President.

This was recognized to be a temporary measure. On December 30, 1803, Breckinridge, from a committee appointed to draw up a scheme for the territorial government of Louisiana, reported the bill which bears his name. By this bill the territory was divided into two parts, that north of the thirty-third parallel to be called "Louisiana", and connected, for purposes of government, with the Territory of Indiana. The name "Territory of Orleans" was applied to the southern area. For this region the bill provided a governor, appointed by the President for a term of three years; a secretary, similarly appointed, for four years; and a legislative council of thirteen members, appointed annually by the President. The governor was given power to convene and prorogue the council at will. The judicial officers were to be appointed by the President for a term of four years. The right of trial by jury was granted in capital cases in criminal prosecutions; and in all cases, criminal and civil, in the superior court, if either party required it. The slave-trade was restricted to slaves from states of the Union, carried into the territory by American citizens going there to settle, and being at the time *bona fide* owners of such slaves. Slaves imported from abroad, and those imported since May 1, 1798, were barred.²

Discussing the Breckinridge Bill, Henry Adams says, "The debate which followed its introduction into the Senate was not reported. . . . Few gaps in the parliamentary history of the Union left

¹ Richardson, *Messages and Papers of the Presidents*, I. 363.

² Act approved March 26, 1804. *Statutes at Large*, II. 283.

so serious a want as was caused by the failure to report the Senate debate on this bill; but the report of the House debate partly supplied the loss, for the bill became there a target for attack from every quarter.”³

This statement has been generally accepted. A rather full report of this debate does however exist, although up to this time it has not appeared in print. It is to be found in a private journal kept by Senator William Plumer of New Hampshire. On May 2, 1805, Plumer wrote:

At the last two sessions of Congress I noted several facts as they occurred, and stated my opinion on several subjects. Should I attend another session I intend to pursue the same course. It will be a mean of preserving facts and opinions, which with the changes and revolution of time and parties are rapidly hastening to oblivion. . . . I write not for posterity—not for others but for myself only. I write in much haste—the facts are correct—but not the style.

The resolution here made was carried out and a record of events from May 2, 1805, to April 21, 1807, followed. The first volume of Plumer’s manuscript journal is called: “Memorandum of the proceedings of Congress, Particularly of the Senate, from October 17, 1803, to March 27, 1804.” It and the later one mentioned above are in the Library of Congress; it was acquired in the year 1912–1913. According to Plumer’s own statement, there was another for the session of Congress from November, 1804, to March, 1805. This was found in the State Library of New Hampshire, thus completing the record of the four sessions of the Senate from October, 1803, to April, 1807.

The first of these volumes contains the report of the debate in the Senate on the Breckinridge Bill. Curiously enough, when this bill was part of the day’s procedure in the Senate, Plumer reported little else. There are a few days on which he does not mention the Louisiana affair, but, in the main, the principal points were well covered. This was particularly true of the question of allowing the Territory of Orleans a delegate in Congress, and of the importation of slaves into that territory. What Plumer himself thought of these matters must be gleaned from the record of the ayes and noes, and from occasional letters, for he rarely took part in debates of any sort.

The newspapers of the day contain little information of the debate in the Senate on the Breckinridge Bill. One exception must be

³ *History of the United States*, II. 122–123. See also F. A. Ogg, *The Opening of the Mississippi*, p. 571, and C. M. Geer, *The Louisiana Purchase*, p. 242.

made. In the *Aurora* of January 27, 1804, is a rather extended summary, sent from Washington, of the debate of January 23. This is all the more important as Plumer has no mention of the Louisiana discussion in his entry of that date. A careful search through the files of other leading newspapers failed to discover any more such reports.⁴

William Plumer, junior, in his *Life of William Plumer* does not discuss this particular debate. One short quotation from a speech of Senator Hillhouse, delivered January 26, is found (p. 284). With regard to the Senate debates in general, the younger Plumer's attitude is that they "belong to the history of the country rather than of the individual, and are therefore not mentioned here".⁵

Seemingly the only known extensive record of the important Senate debate on the bill providing for the government of the newly acquired territory, Plumer's journal is a valuable one. Only the entries which have a direct bearing on this question are here given. The first entry is for January 16, the last February 18, when the bill passed the Senate.

EVERETT S. BROWN.

1804, Monday, Jany. 16th.

The bill erecting Louisiana into two territories.

*Mr. Worthington.*⁶ Moved to amend the 4th section so as that the Legislative Council should be authorized to elect a delegate to Congress with the right to debate but not vote.⁷

*Mr. Brackenridge.*⁸ I approve of the motion—it will be the means of conveying useful knowledge to Congress.

*Mr. Saml. Smith.*⁹ This is going as far as we can at present to satisfy the third article of the treaty.¹⁰ This will be placing that country

⁴ This statement does not refer to editorial comment on the text of the bill as passed, of which much was written; for example, see the *Boston Repertory*, March 6, 1804, a copy appearing in the *Massachusetts Spy*, Wednesday, March 14, 1804. The *Aurora* report is printed after Plumer's.

⁵ Plumer, *Life of William Plumer*, pp. 338-339.

⁶ Thomas Worthington, senator from Ohio.

⁷ The fourth section of the bill was that providing as to the appointment and powers of the legislative council. It is quoted in the *Journal* of the Senate for this day (III. 340 of the reprint of 1821). It is in almost every particular identical with the fourth section of the act as finally passed. The act made no provision for a territorial delegate.

⁸ John Breckinridge, senator from Kentucky.

⁹ Samuel Smith, senator from Maryland.

¹⁰ The third article of the Louisiana Treaty provided that the inhabitants of the ceded territory should be incorporated in the Union of the United States and admitted as soon as possible to the enjoyment of the privileges of citizenship, and that in the meantime they should be protected in the free enjoyment of their liberty, property, and religion.

on the same footing as the other territorial governments¹¹—and from this delegate we shall derive much information.

*Mr. Dayton.*¹² I am opposed. The legislative Council itself will be better able by their memorials to represent the actual state and wants of that country than their agent.

*Mr. Jn. Smith.*¹³ I think the amendment is necessary and important.

*Mr. Pickering.*¹⁴ No man will undertake to say, Louisiana is incorporated into the Union, it is therefore absurd to admit a delegate from that country to debate in our national councils. That is a purchased province, and as such we must govern it.

*Mr. White.*¹⁵ I cannot consider that territory as a part of the Union. The legislative council are to be created by the President, and shall they be vested with the power of choosing a delegate to Congress, and who will in fact be the representative of the President. 'Tis wrong.

*Mr. Jackson.*¹⁶ I am opposed to the motion. The people of that country ought not to be represented in Congress. It is too soon.

*Mr. Anderson.*¹⁷ If this amendment does not obtain, I must vote agt. the section. What, tax that people without their being represented!

Mr. Worthington. What danger can arise from this measure—the delegate can only debate not vote.

*Mr. Bradley.*¹⁸ This delegate will be the representative of your President not of that people. I am surprised to find an advocate for such doctrine. Is the Executive to be represented in the other House? If he can have one delegate to represent him, why not fifty?

Mr. Dayton. The motion is unconstitutional. The constitution has provided only for the representation of States, and no man will pretend that Louisiana is a State. It is true by the confederation¹⁹ provision was made for delegates from territories—and our constitution has provided *that all contracts and engagements entered into before its adoption shall be valid* (Art. 6th) but no man will have the hardihood to say that Louisiana was included in that engagement.

*Mr. Adams.*²⁰ I was pleased with this motion—but the objections arising from the Constitution, and from the Delegate's being the representative of the Executive and not of that people—compels me *reluctantly* to decide against it.

*Mr. Cocke.*²¹ Gentlemen confound things—this man will not be a representative but a delegate. The government of Louisiana has been compared to other territorial governments, as Mississippi—but this is

¹¹ At this time there was statutory provision for delegates from the Mississippi and Indiana territories.

¹² Jonathan Dayton, senator from New Jersey.

¹³ John Smith, senator from Ohio.

¹⁴ Timothy Pickering, senator from Massachusetts.

¹⁵ Samuel White, senator from Delaware.

¹⁶ James Jackson, senator from Georgia.

¹⁷ Joseph Anderson, senator from Tennessee.

¹⁸ Stephen R. Bradley, senator from Vermont.

¹⁹ Rather, by the ordinance for the government of the Northwest Territory, sect. 12.

²⁰ John Quincy Adams, senator from Massachusetts. Some account of the proceedings and debates upon this bill will be found in his *Memoirs*, I. 290–295.

²¹ William Cocke, senator from Tennessee.

wrong. This is an original system, founded on new principles—it is unlike anything in Heaven, in earth or under it—we must therefore reason from itself and not compare it with others—for myself I admire it. What part of the Constitution shall we violate by this amendment—none. This delegate will not be a constitutional representative, the objection therefore is not solid. I know *that* people are ignorant, but ignorant people will always elect learned and wise men to represent them, they know the necessity of it. I love and venerate these people—*they live in the west.*

Mr. Brackenridge. This amendment is no infringement of the constitution. This officer will not be a representative, for he cannot vote—he will be a delegate, and can only deliberate. He will have no legislative power.

Mr. S. Smith. There is nothing in the constitution that precludes the senate from admitting delegates on this floor from the old territories and what is there that can restrain us from admitting Louisiana to send a delegate to the other House? There can be no danger that the delegate will mislead or impose upon the House.

The motion failed yeas 12 nays 18.

1804, Tuesday, Jany. 17th.

The motion to extend the trial by jury in all criminal prosecutions in that territory²² was lost yeas 11, nays 16.

1804, Tuesday, 24th. Jany.

The bill for the government of Louisiana.

Mr. Jackson. The inhabitants of Louisiana are not citizens of the United States—they are now in a state of probation. They are too ignorant to elect a legislature²³—they would consider jurors as a curse to them.

*Mr. McClay.*²⁴ Those people are men and capable of happiness—they ought to elect a legislature and have jurors.

Mr. Saml Smith. Those people are absolutely incapable of governing themselves, of electing their rulers or appointing jurors. As soon as they are capable and fit to enjoy liberty and a free government I shall be for giving it to them.

Mr. Cocke. The people of that country are free—let them have liberty and a free government. This bill I hope will not pass—it is tyrannical.

*Mr. Nicholas.*²⁵ I approve of the bill as it is. I am opposed to giving them the rights of election, or the power of having jurors. We ought not *yet* to give that people *self-government*. As soon as it is necessary I will give my assent to that Country's being admitted as a state into the Union.

Mr. Anderson. Several gentlemen of the Senate, I am sorry to say it, appear to have no regard for the third article of the treaty—they

²² The bill provided for trial by jury "in all cases which are capital"; the motion was to strike out the words "which are capital". *Journal*, III. 343-344.

²³ The amendment under discussion provided for popular election of the legislative council.

²⁴ Samuel Maclay, senator from Pennsylvania.

²⁵ William Cary Nicholas, senator from Virginia.

seem opposed to freedom. This bill has not a single feature of our government in it—it is a system of tyranny, destructive of elective rights. We are bound by treaty, and must give that people, a free elective government.

Mr. Pickering. That people are incapable of performing the duties or enjoying the blessings of a free government. They are too ignorant to elect suitable men.

*Mr. Jackson.*²⁶ Slaves must be admitted into that territory, it cannot be cultivated without them.

Mr. Brackenridge. I am against slavery. I hope the time is not far distant when not a slave will exist in this Union. I fear our slaves in the south will produce another St. Domingo.

*Mr. Franklin.*²⁷ I am wholly opposed to slavery.

Mr. Dayton. Slavery must be tolerated, it must be established in that country, or it can never be inhabited. White people cannot cultivate it—your men cannot bear the burning sun and the damp dews of that country—I have traversed a large portion of it. If you permit slaves to go there only from your States, you will soon find there the very worst species of slaves. The slave holders in the United States will collect and send into that country their slaves of the worst description.

Mr. John Smith. I know that country. I have spent considerable time there—white men can cultivate it. And if you introduce slaves from foreign Countries into that territory, they will soon become so numerous as to endanger the government and ruin that country. I wish slaves may be admitted there from the United States. I wish our negroes were scattered more equally, not only through the United States, but through our territories—that their power might be lost. I can never too much admire the deep policy of New England in excluding slavery. I thank god we have no slaves in Ohio.

Mr. Franklin. Slavery is in every respect an evil to the States in the south and in the west, it will, I fear, soon become a dreadful one—negro insurrections have already been frequent—they are alarming. Look in the laws of Virginia and North Carolina made for the purpose of guarding against and suppressing these rebellions, and you will learn our dangers.²⁸

1804, Wednesday, Jany. 25.

Bill for the government of Louisiana.

Question relative to slavery.

Mr. Bradley. I am in favor of extending slavery to that country, because it is a right they claim, and by the treaty we are bound to grant

²⁶ Comparison of the original bill, amendments, and amended bills preserved in the Senate files shows that the Senate at this point began the consideration of an amendment which extended to the new territory the act of February 28, 1803, forbidding importation of slaves into states which prohibited their importation.

²⁷ Jesse Franklin, senator from North Carolina.

²⁸ Here Senator Plumer gives a summary of a letter of Governor Claiborne, describing conditions in New Orleans, which the Senate at this point received from President Jefferson, covered by his brief message of this date, given in the *Journal* and in Richardson, I. 367.

it to them—but I think that in this bill we had better say nothing on that subject.

*Mr. Hillhouse.*²⁹ Negroes are rapidly increasing in this country—there encrease for the ten years ending with the last census was near two hundred thousand. I consider slavery as a serious evil, and wish to check it wherever I have authority. Will not your slaves, even in the southern states, in case of a war, endanger the peace and security of those states? Encrease the number of slaves in Louisiana, they will in due time rebel—their numbers in the district of Orleans, are now equal to the whites³⁰—why add fuel to this tinder box, which when it takes fire will assuredly extend to some of your states. Why encrease the evil at a distant part of your territory—which must necessarily require a standing army to protect it? If that country cannot be cultivated without slaves, it will instead of being a paradise prove a curse to this country, particularly to some of the states in its vicinity.

Mr. Bradley. I am in favor of establishing a form of a general, not particular, government—we ought not to descend to particulars. We are incompetent to that—they are too distant from us, and we are ignorant of their wants, their habits and manners. Congress is an improper body to make municipal laws—we have abundant proof of this in our legislation for this district in which we sit—our laws here are very imperfect and insufficient.

Mr. Adams. Slavery in a moral sense is an evil; but as connected with commerce it has important uses. The regulations offered to prevent slavery are insufficient, I shall therefore vote against them.

Mr. Dayton. I do not wonder at the sentiments of the gentleman from Connecticut (Mr. Hillhouse), for he has been opposed to every thing that relates to Louisiana—he appears to me to wish to render this bill as bad as possible; but I am surprised that gentlemen who are friendly to that country, wish to prohibit slavery—it will barr the cultivation and improvement of that extensive territory. The lives of white people are shorter there than in any of our states, and the labour of slaves more necessary. An elective government and trial by jury would be a curse to that people; but slavery is essential to their existence.

Mr. Hillhouse. I do not understand the doctrine nor censures of the gentleman from New Jersey (Mr. Dayton). The constitution is by him winked out of sight—that admits of a republican government and no other. We must apply the constitution to that people in all cases or in none. We must consider that country as being within the Union or without it—there is no alternative. I think myself they are not a part or parcel of the United States.

Mr. John Smith. I have traversed many of the settlements in that country. I know that white men labour there—they are capable of cultivating it. Slaves ought not to be permitted to set their feet there. Introduce slaves there, and they will rebel. That country is full of swamps—negroes can retire to them after they have slain their masters. This was in fact the case not eighteen years since—they rose, slew

²⁹ James Hillhouse, senator from Connecticut.

³⁰ Hillhouse probably meant the district consisting of the island of New Orleans with its immediate dependencies. In that case the numbers, according to the statistics which had been furnished by Jefferson (*American State Papers, Miscellaneous*, I. 384), were, 25,000 whites, 25,000 blacks.

many, and fled to the morasses.³¹ Will you encrease there number, and lay the necessary foundation for the horrors of another St. Domingo? If slaves are admitted there, I fear, we shall have cause to lament the acquisition of that country—it will prove a curse.

Mr. Jackson. The treaty forbids this regulation. It will depreciate your lands there fifty pr cent. I am a Rice-planter—my negroes tend three acres each pr man—I never work them hard, they finish their stint by one or two oClock, and then make three shillings pr diem to themselves. I know that a white man cannot cultivate three acres of rice, and yet Georgia is not so warm as Louisiana. You cannot prevent slavery—neither laws moral or human can do it. Men will be governed by their interest, not the law. We must keep the third article of the treaty always in view.

Mr. Anderson. On the ground of the interest of the western states, the admission of slaves into Louisiana ought to be opposed—it will prove a curse to us. By the constitution slavery is criminal. All the States, except South Carolina, have passed laws against the importation of Slaves.³²

Mr. White. I think it unfortunate that whenever this question is stirred, feelings should be excited that are calculated to lead us astray. I have entertained the hope that Congress would on all occasions avail themselves of every mean in their power to prevent this disgraceful traffick in *human flesh*. There is nothing in the treaty that guarantees to the people of that Country the *power*, I will not say *right*, of holding slaves. 'Tis our duty to prevent, as far as possible, the horrid evil of slavery—and thereby avoid the fate of St. Domingo. Nothing but the interposition of Heaven, an unusual thunder-storm, prevented the slaves, only two years since, from destroying Richmond in Virginia.³³ That, and other states are obliged annually to make many severe and expensive provisions to protect and guard the lives of the masters and their families against the violence of the slaves.

It is said that Louisiana cannot be cultivated by *white men*. May not this proceed from the very circumstance of their having slaves. Let white men be accustomed to the culture of that country, and they will, I believe, find they are able to bear the fatigue of it. We may by use, by long habit, be brought to bear heat and fatigue as well as blacks. We boast of liberty and yet in the very bosom of our Country, establish slavery by law. Examine the state of this Union. In the Eastern states where slavery is not suffered, their lands are highly cultivated—their buildings neat, useful and elegant—and the people are strong, powerful and wealthy. But as you travel south, the instant you arrive to where slavery is, you find the lands uncultivated, the building decaying and falling into ruins and the people poor, weak and feeble. This is not the effect of climate—for our southern climates are more favorable than the eastern and the northern.

Mr. Bradley. I am opposed to slavery in the eastern states; but the

³¹ Possibly the reference is to the abortive attempt at insurrection in Pointe Coupée parish in 1795, *eight* years before.

³² By successive enactments, from 1787 to 1803, South Carolina had, like the other states, forbidden the importation of slaves, but these laws had just been repealed, December 17, 1803, and the trade reopened.

³³ The reference is to Gabriel's Insurrection, September, 1800.

resolution under consideration admits the principle of slavery, and therefore I shall vote against it.

Mr. White. I shall vote for it not because I wholly approve of it, but because I think it as favorable toward people of colour as any thing we can now obtain.

Mr. Saml Smith. I am at a loss to know why the gentleman from Massachusetts (Mr. Adams) has so often considered and declared himself as the exclusive advocate for constitutional rights. I am against this motion. The people of that country wish for African slaves, and we ought to let them have a supply—we have a constitutional right to prohibit slavery in that country, but I doubt as to the policy of it—I shall vote against the motion. We are bound to provide for the support of the clergy of that country.

Mr. Hillhouse. The gentleman from Vermont (Mr. Bradley) is opposed to slavery. To prove his opposition he declares he will vote against this resolution, which is designed to limit slavery to those who are in the country—and if he prevails in his opposition, the consequence will be that the people of Louisiana will have the liberty of importing slaves not only from the United States, *but also directly from Africa.* If that country cannot be cultivated without slaves, let slaves hold it—or let it remain a wilderness forever. Those are the real friends of liberty who extend it to others, as well as to themselves.

*Mr. Israel Smith.*³⁴ The provision proposed, is insufficient—it will rather encrease than prevent slavery. I am opposed to slavery but as Congress cannot prohibit it effectually till 1808—and as there are many slaves in Louisiana I think the change proposed will be too sudden—that it will operate as an encouragement to South Carolina to import slaves.³⁵ I am therefore opposed to doing anything upon the subject at the present.

No vote taken on the subject.

1804, Thursday, Jany. 26.

Government of Louisiana—Slavery.

Mr. Hillhouse. I have been accused of being unfriendly to this territory—and of having made the motion now under discussion not from a regard to that country or its inhabitants but to embarrass the measures of government. I was opposed to the ratification of the treaty, but as that is past, I am bound to act in relation to that country upon such principles as to me appear correct and calculated to promote the general interest of the Nation. And I hope I shall never find it necessary to adduce evidence to prove the sincerity of my disposition or the truth of my declaration. It has been said on this floor that I am an *Eastern-man*. I am so, but *while* I am the representative of a State which is *yet* a member of the *Union*, I hope I shall have as much influence as if I was a *southern man*. I did not expect *so soon* to hear on this floor the distinction of *eastern and northern, and southern, men*. Has it indeed come to this—are we to be designated by a *geographical* line!

The question was on the following motion, to wit.

“That it shall not be lawful for any person or persons, to import or

³⁴ Israel Smith, senator from Vermont.

³⁵ See note 32 above.

bring into the said territory, from any port or place without the limits of the United States, or to cause or procure to be so imported or brought, or knowingly to aid or assist in so importing or bringing, any slave or slaves; and every person so offending and being thereof convicted, before any court within the said territory, having competent jurisdiction, shall forfeit and pay, for each and every slave, so imported or brought the sum of dollars, one moiety for the use of the United States, and the other moiety, for the use of the person or persons who shall sue for the same; and every slave so imported or brought, shall thereupon become entitled to and receive his or her freedom.”

Note, This amendment was presented by Mr. Hillhouse.³⁶

Mr. Jackson. Slavery must be established in that country or it must be abandoned. Without the aid of slaves neither coffee or cotton can be raised. My interest is to prevent slavery in that country, because that will prevent its settlement, and thereby raise the value of estates in Georgia—but my duty is in this opposed to my interest, and that of my State.

I think it would be for the real interest of the United States to have an end to slavery in this country; but we cannot get rid of them.

I am against the prohibition—let those people judge for themselves—the treaty is obligatory upon us.

I dislike the traffic in human flesh—but we must decide not on the morality but policy of the case.

The present time is an improper time to prohibit the importation of slaves into that country—our government is not yet established there.

Slaves in America are generally well fed clothed and taken care of—our interest obliges us to do it—they live better than if they were free—they are incapable of liberty.

Mr. Dayton. These very debates will encrease the *hopes* of slaves. You are about to prohibit African slaves from that country—and to admit the worst of slaves—such as the southern planters wish to sell:—I say admit slaves for slaves must cultivate Louisiana—white people cannot subsist there without them.

The faith of the nation, is by the treaty, pledged to that people, that their rights shall be secured to them—one of their rights is slavery.

It is of importance that we should raise our own sugar—that we can do if we have slaves.

Mr. Bradley. The prohibiting slaves in that territory from Africa, and admitting them from the States, will encrease, not lessen, slavery. Each State can till 1808 import slaves from Africa, and by this law the slave states may send their vicious slaves to Louisiana.

Mr. Brackenridge. I have no hesitation in saying, That the treaty does not in the smallest degree authorize that people to hold slaves—much less does it pledge the faith of the Union to support this unjust, unnatural traffic. When I look at the Census, I am alarmed at the encrease of slaves in the southern states. I consider slavery as an evil—and am for confining it within as small a compass as possible.

Mr. Bradley. I am against slavery—but this provision is insufficient, and I shall vote against it. If the States holding slaves, require it, I will go as far as they wish in abolishing slavery, for I am an enemy to

³⁶ This amendment of Hillhouse, preserved in manuscript in the Senate files, is that which appears in the printed *Journal*, III. 345.

it. But that time is not yet come—the public mind is not ready for it—and I think we had now better do nothing upon the subject.

Mr. Samuel Smith. I am sorry this proposition is brought before the Senate—I am against slavery—but I shall vote against this proposition—and I fear it will thereby appear that I am in favor of slavery. Yet let it be remembered, that although I am a slave holder, I declare I disapprove of slavery.

Mr. Franklin. My wish is to prohibit slaves altogether from that country, except those carried thither by actual settlers from the United States—but I despair of obtaining such a vote in Senate—I will vote for such a prohibition as I can obtain.

I have no objection to sending a frigate to Charlestown to prevent the landing of slaves from Africa imported by South Carolina—and *frittering those nefarious traders to pieces.*

Mr. Jackson. Gentlemen from the north and the east do not know that *white men* cannot indure the heat of a vertical sun—they cannot cultivate and raise a crop of rice—negroes are necessary for that country. It is as impossible to prevent the importation of them into that country as to move the sun into the moon. Human power and invention cannot prevent it. Within less than a year 10,000 slaves have against law been imported into South Carolina and Georgia.³⁷ 'Tis in vain to make laws upon this subject. Slaves directly from Africa are preferable to those who have been long in this country or even to those born here. I am sorry that the constitution of Georgia prohibits slavery.³⁸

Mr. Pickering. When this subject was first brought up I was favorably inclined to the admission of slavery in that territory—but the discussion has convinced me that it will be bad policy indeed to admit slaves there—that it will entail upon their posterity a burthen they will be unable to bear or remove—and that slaves are unnecessary there—white people can cultivate it. I therefore approve of the resolution.

Mr. Bradley. This resolution supports slavery. I shall therefore vote against it, although it is bro't forward by those who wish to destroy slavery. The Constitution of Vermont declares all men free—I have sworn to support it, and I will.

Mr. Israel Smith. I am opposed to this resolution, because it will not prevent slavery—I am opposed to slavery; but I think no law can prevent or destroy it—the law will be useless and therefore I shall vote against it. If a law was made to prohibit the use of cyder in New England, where it is now used in every family, could you carry it into effect. This is the case of slaves in that country. We cannot till 1808 pass any effectual law against slavery. South Carolina has opened its ports for the importation of slaves from Africa, and this she has a *right* to do.

The people of Louisiana ought not to be subject to much change in government, laws, or habits at present. They are not yet bound to us

³⁷ See the statements of Lowndes of South Carolina and Mitchell of New York in the House debate of February 14, 1804. *Annals of Congress*, 8 Cong., 1 sess., pp. 992, 1000.

³⁸ The constitution of Georgia, 1798, art. IV., sect. 11, prohibited, not slavery, but the future importation of slaves into that state from Africa or any foreign place.

by any ties. This resolution will estrange them from us—it will oppress them. It cannot be carried into effect. It will give encouragement to the States in 1808 to resist any laws that we may then constitutionally make to abolish slavery. I therefore hope we shall *now* do nothing relative to slavery.

Mr. Samuel Smith. I wish I could prevent the taking of the yeas and nays when the Senate are sitting in Committee of the whole—I dislike it—it is absurd.³⁹

Mr. Jackson. It is now more than half past three P.M. and I move for an adjournment. Refused. He then said, It is unfair for a *majority* thus to press the subject.

The question was then taken on the amendment (page 316.)⁴⁰ and prevailed, yeas 21 nays 6.

Mr. Bradley. As tomorrow is to be a day of festivity on account of the acquisition of Louisiana,⁴¹ I move that the Senate adjourn to monday next.

Negatived.

After the Senate was adjourned, he said, with great passion that he would not on the morrow either attend the Senate or the feast. He kept his word.

1804, Monday, Jany. 30.

Mr. Hillhouse moved the following amendment, to the Louisiana bill.

“That no male person bro’t into said territory of Louisiana, from any part of the United States, or territories thereof, or from any province or colony in America belonging to any foreign prince or state, after the day of next, ought or can be holden by law to serve for more than the term of one year, any person as a servant, slave, or apprentice, after he attains the age of 21 years; nor female in like manner, after she attains the age of 18 years, unless they are bound by their own voluntary act, after they arrive to such age, or bound by law for the payment of debts, damages, fines, or costs. *Provided*, that no person held to service or labor in either of the States or territories aforesaid, under the laws thereof, escaping into said territory of Louisiana, shall by anything contained herein, be discharged from such service or labor, but shall be delivered up in the manner prescribed by law.”⁴²

Mr. Hillhouse. I am in favor of excluding slavery from that Country altogether. Every slave increases the necessity of a standing army. Every slave weakens the power of the militia. The *distance* from the States encreases the necessity of excluding slavery there.

Mr. Bradley, made a few observations in support of the amendment.

It was rejected yeas 11, nays 17.

Mr. Hillhouse then offered the following amendment,

“That it shall not be lawful for any person or persons, to import or bring into the said territory, from any port or place within the limits of the United States, or cause to, or procure to be so imported or bro’t, or knowingly to aid or assist in so importing or bringing, any slave or

³⁹ See J. Q. Adams, *Memoirs*, I. 292–293.

⁴⁰ Of the manuscript. Hillhouse’s amendment, see note 36.

⁴¹ J. Q. Adams, *Memoirs*, I. 293.

⁴² *Journal*, III. 346–347.

slaves, which shall have been imported, since the day into any port or place within the limits of the United States, from any port or place without the limits of the United States; and every person so offending and being thereof convicted, before any court within the said territory, having competent jurisdiction, shall forfeit and pay for each and every such slave, so imported or bro't, the sum of dollars: one moiety for the use of the person or persons who shall sue for the same."⁴³

Mr. Hillhouse, observed this was but a part of the system necessary to be adopted.

Mr. Dayton. South Carolina has now a constitutional right to import slaves from Africa—she is in the exercise of that right—and this amendment impairs it.

Mr. Hillhouse. It does, and *justly*.

Mr. Jackson. It is unfortunate that we have slaves; but having them we cannot with safety or policy free them. A very few *free negroes* in Louisiana would revolutionize that country. In Georgia we prohibit men from manumitting their slaves⁴⁴—one free negro is more dangerous where there are slaves than a 100 slaves. I will join to *export* all the slaves.

Mr. Hillhouse. I believe slavery is a real evil; but I am sensible we must extinguish it by degrees. It will not do to attempt to manumit all the slaves at once. . Such a measure would be attended with serious evils. These slaves are men—they have the passions and feelings of men. And I believe if we were slaves, we should not be more docile, more submissive, or virtuous than the negroes are.

Mr. Nicholas. Free men of *colour* have a very ill effect upon slaves—they do much more mischief than strangers conceive of.

Mr. Adams. The general complaint against gentlemen from the eastern States has been that they have discovered too much opposition to slavery. I am opposed to slavery; but I have in this bill voted against the provisions introduced to prohibit and lessen it. I have done this upon two principles, 1. That I am opposed to legislating at all for that country. 2. I think we are proceeding with too much haste on such an important question.

Mr. Bradley. I abhor slavery. I am opposed to it in every shape. *He that steals a man and sells him ought to die*.⁴⁵ I will on every occasion vote against slavery. I am very sorry the question is *now* called up. I have done every thing I could to prevent it—but since gentlemen, (and many of them from Slave States) will stir the question, I am prepared and will on all occasions vote against slavery.

The amendment was adopted, yeas 21. nays 7.

1804, Tuesday, Jany. 31.

Bill relating to Louisiana.

Motion to strike out the following words, from the amendment to the bill.

⁴³ The amendment presented at this time by Hillhouse (*Journal*, III. 347) embraces both this text and that which appears at the beginning of the next day's proceedings in this record, and of p. 353.

⁴⁴ A Georgia act of 1801 made manumission illegal unless accomplished by act of the legislature. Cobb, *Digest*, p. 983.

⁴⁵ Exodus xxi. 16.

“And no slave or slaves shall directly or indirectly be introduced into said territory, except by a person or persons removing into said territory for actual settlement, and being at the same time of such removal *bona fide* owner of such slave or slaves; and every slave imported or bro't into the said territory, contrary to the provisions of this act, shall thereupon be entitled to, and receive his or her freedom.”⁴⁶

Mr. Bradley. I am opposed to this paragraph, because it admits the doctrine of slavery to be just—it is like a law regulating theft or any other crime, I shall therefore vote to expunge it. I really consider slavery as a moral evil—as a violation of the laws of God—of nature—of Vermont.

Mr. Nicholas. The gentleman from Vermont (Mr. Bradley) has surprised me by his extraordinary conduct—for several days he spoke and voted with his friends who advocated slavery—but yesterday and today he has avowed other sentiments and changed his vote. He is now become vociferous for emancipation. Is he apprehensive the restriction will prevail. Is he afraid of finding his name on the journal against the vote. Why this unaccountable change?

Mr. Bradley. I have not changed my sentiments. I was unwilling to have the question stirred. I was desirous of shutting my eyes against the subject—but since I am compelled to act, I will vote in favor of *liberty*.

Mr. Jackson. If this law with these amendments passes you destroy that country—you render it useless—you will excite alarms in the mind of Frenchmen—you will render a standing army necessary. I again say that country cannot be cultivated without slaves—it never will.

Mr. John Smith. I am willing to admit slaves into that country from the U. S., because slaves are already there, but I am unwilling to admit them from Africa. You cannot prevent slaves going there from the United States. I know this is an evil, but it is an evil they will have.

Mr. Saml Smith. When the prohibition of slavery was first introduced into this bill I was much alarmed. I foresaw it would take up time—that it would create alarm and even endanger the peace and security of these States holding slaves—especially when the subject is debated in the other House—and those debates published in Newspapers. God knows that I am not friendly to slavery, although I own slaves and live in a state where slavery is established by law. I am unwilling to think much less to speak on this subject. This bill if passed into a law cannot be carried into effect—the people of that country will not submit to it. It will render a standing army necessary. In the year 1808 we may then effectually legislate on the subject—the constitution will then admit of it, and our navy will then enable us to carry it into effect. American slaves carried to Louisiana will prove adders that will sting that people to the heart. The report of your debate in this Senate on this subject will reach that country in twelve days, and I fear will produce a rebellion—our troops there are few and feeble, and will be unable to prevent it.

Mr. John Smith. If the slaves now in the southern States continue to increase in 20 or 30 years those States will be compelled to call on the eastern and western states to aid them against their rebellious slaves.

⁴⁶ See note 43 above. The motion also provided a substitute with slight modifications. *Journal*, I. 348.

Mr. Franklin. We cannot wink this subject out of sight—if we leave it, it will follow us. We must make laws against slavery, unless we mean to aid the destruction of our southern States, by laying the foundation for another St. Domingo. Slavery is a dreadful evil—we *feel* it in North Carolina—we can emancipate. I am for restraining foreign importation, but to proceed no further.

Mr. Brackenridge. We can make laws to prevent slaves, and we can carry those laws into effect—if we cannot do this our power is too feeble to govern this nation. We must not despair—we must act. We are legislating for a great country—for an important section of the nation. In doing this I will not for a moment attend to its immediate effects, whether it will lessen or encrease sugar, or other articles. No Sir, I extend my views to posterity. It is of importance that our first acts of Legislation should be correct. Can it be right to extend and foister slavery into that country?

I think it good policy to permit slaves to be sent there from the United States. This will disperse and weaken that race—and free the southern states from a part of its black population, and of its danger. If you do not permit slaves from the United States to go there, you will thereby prohibit men of wealth from the southern States going to settle in that country.

It has been said by the gentleman from Vermont (Mr. Bradley) *that liberty cannot exist with slavery.* This is not correct—it exists in these states who have slaves. Our constitution recognizes *slavery*—it does more—it expressly *protects it.*

Mr. Nicholas. One State only, South Carolina, can now import Slaves—and that is a *right* derived not from Congress, but from the constitution—it is a mere temporary right. The people of Louisiana cannot therefore complain of partiality in Congress because we deny them the liberty of importing foreign slaves. It is no more than what we long since denied to the Mississippi and Ohio territories. We are now making a form of government for Louisiana, not establishing a common and ordinary law. I am for prohibiting the people of that country from importing slaves from foreign countries, and leave it optional with the government of Louisiana, when they have one, to prohibit it from the United States also, if they should think best.

Mr. Adams. I do not like either of the amendments that have been offered, but if I must vote for either it will be to retain the word moved to be struck out. If I must vote it will be in favor of liberty. The Constitution does not recognize *slavery*—it contains no such *word*—a great circumlocution of words is used merely to avoid the term *slaves.*

*Mr. Venable.*⁴⁷ I know the constitution does not contain the *word* slave—but it admits the *thing* and protects it—and Congress have uniformly acted accordingly.

The question for striking out was lost, yeas 13, nays 15.*

* It is obvious that the zeal displayed by the Senators from the Slave States, to prohibit the foreign importation of Slaves into Louisiana, proceeds from the motive to raise the price of their own slaves in the market—and to encrease the means of dispersing of those who are most turbulent and dangerous to them.

⁴⁷ Abraham B. Venable, senator from Virginia.

1804, Wednesday, Feby. 1.

Bill for the government of Louisiana.

It was moved by *Mr. Hillhouse* to amend it by adding the following,—

“And no slave or slaves shall directly or indirectly be introduced into the said territory, except by a *citizen of the United States*,⁴⁸ removing into said territory, for actual settlement, and being at the time of such removal *bona fide* owner of such slave or slaves; and every slave imported or brought into the said territory, contrary to the provisions of this act, shall thereupon be entitled to, and receive his or her freedom.”

Mr. Jackson. I move to postpone the further consideration of this amendment to September.

Mr. Hillhouse. This being an amendment to a bill it cannot be postponed unless the bill is postponed with it.

*The President.*⁴⁹ The motion is not in order—it cannot be recd.

*Mr. Wright.*⁵⁰ The owners of land in that country who do not live there ought to have liberty of sending their slaves to cultivate their own land but not to sell their slaves there.

It is wrong to reproach us with the *immorality of slavery*—that is a crime we must answer at the bar of God—we ought not therefore to answer it here—for it would be unjust that we should be punished twice for the same offence.

I am against admitting *foreign slaves*, because the State of Maryland has declared it *wrong*.⁵¹

Mr. Jackson. This amendment does not authorize foreigners who may go to settle in that country to carry their slaves with them, I am therefore on this ground opposed to the amendment. The great object we should have in view should be the settlement of that country. Our interest is to admit Englishmen there as soon and as fast as possible.

Mr. Hillhouse. I hope foreigners will not be permitted to settle in that *distant* country. It is seldom, that any but the *worst* of men leave their own to settle in a foreign country.

Mr. Jackson. I am not afraid of such evils. The *friends of liberty only will come*—let us encourage the settlement of that country as much as possible. It is dangerous to exclude foreigners. The very best of men will flee from Europe—for liberty exists only in this country. Bad men are afraid to come here—they are encouraged to stay at home. I trust the present Congress are not apprehensive of having too many *Jacobins* in this country. The government and the Congress were five years ago afraid of *Jacobins*—I hope we are not like them.

Mr. Pickering. I am very willing that foreigners should be admitted to settle in that country—for I believe before we purchased that we had territory in the United States sufficient for *us* and *our* posterity to the thousandth generation. I am willing that in Louisiana oppressed humanity should find an assylum, and that the patriots of no country

⁴⁸ The words which Plumer has underlined are the new matter, substituted for “person or persons”, as is shown by the amendments in the Senate files, as well as by the *Journal*.

⁴⁹ On January 23, Vice-President Burr being absent on account of illness, Senator John Brown of Kentucky had been chosen president of the Senate *pro tempore*.

⁵⁰ Robert Wright, senator from Maryland.

⁵¹ Maryland act of 1796, c. 67.

should there find a country in which no restraints should be imposed upon them.

It was then moved to strike out of the amendment the words *citizen of the United States* and insert *person*.

The motion was lost yeas 13 nays 14.⁵²

The question was then carried on the amendment, yeas 18, nays 11.

Mr. Jackson. If you establish a regular government there, you will destroy the western States, by the strong inducements you will hold out to people to settle Louisiana. The cession will prove a curse—why invite people to settle it now—it is too soon—50 or 100 years hence will be soon enough. By exposing these immense tracts of uncultivated lands to sale you will encourage bribery. I was offered half a million of acres to hold my tongue in the Georgia speculation. I had *virtue* to resist the temptation.⁵³

The settlement of Louisiana will destroy the value of our lands. It will effect what I very much deprecate, a *seperation* of this Union.

How great, how powerful, was Spain before she acquired South America. Her wealth has debased and enervated her strength. If you establish a regular government in Louisiana, that will be settled—you cannot then prevent it—and if settled, such is the enterprizing spirit and avaricious disposition of Americans that they will then soon conquer South America, and the rich mines of that country will prove our ruin. A military government ought to be established in upper Louisiana—that would prevent settlement. I would pay those Americans who are now there for their lands if they would quit them.

Mr. Cocke. I am glad Georgia has one uncorrupt man, and I rejoice that he is a senator. I trust we have many such in the nation. I am ready to vote. The debate on this bill has been so long that I have already lost the benefit of much of it, for I have really forgotten it. I can throw no new light. I call for the question. We must give that people a rational government.

Mr. Worthington. The government contemplated by this bill is a military despotism, and I am surprised that it finds an advocate in this enlightened Senate. The gentleman from Georgia (Mr. Jackson) talks of a *seperation*—Sir, the *western states* will not *seperate* unless the *eastern States* by their conduct render it absolutely *necessary*.

1804, Thursday, Feby. 2nd.

*Government of Louisiana. Motion to strike out the 8th section of the bill.*⁵⁴

Mr. Hillhouse. I am against the establishment of an arbitrary government in that country. It has been said it is best to establish such a government in that country as will prevent its settlement. I wish gentle-

⁵² This motion does not appear in the *Journal*.

⁵³ In 1796 Jackson was the leader of the "Anti-Yazoo Party" in the Georgia house of representatives, having resigned his seat in the United States Senate in order to conduct the contest.

⁵⁴ The eighth section of the original bill, with slight modifications, is quoted in the *Journal*, III. 349. It relates to the government of the portion of the Louisiana cession north of the territory of Orleans, and provides for rule by a governor having the executive and judicial powers ("paramount powers" in the original bill) exercised by the former governors of the province.

men to consider, that by the treaty the rights of the inhabitants of that country are guaranteed to them. Look at documents now on your tables, by them it appears that much of those vacant or uncultivated lands are granted to Spaniards. And you must give to them such a government as they can live under, or you will not protect them in the enjoyment of their rights as you have by your treaty stipulated. You must give that people a practical government—not like our own, for they are unacquainted with it—a military government would be too arbitrary. I would not give them a trial by jury, because they are not used to it—but I would give them the liberty of having trials by jury whenever they are able to express their desire of it by their own legis[la]ture and to make laws regulating that mode of trial.

Mr. John Smith. The establishment of a military government is at war with the third article of the treaty—with the letter and spirit of your constitution—which knows no other government than that of republicanism. That country is now ours—and it will be utterly impossible, by any law you can pass, to prevent people from emigrating to and settling in that country. Reference is frequently made to the documents that the President has sent us respecting that country. Those documents are incorrect. I know of three large settlements in that country that are not even named in these papers. We know but little of that Country.

Mr. Cocke. Give that country a Jury. I know we can prevent its settlement. I would not give them a *good* government. I prefer a *bad* one to a good one *for them*—because a bad one will make them contented, they have been used to it. The only way to govern that country safely is to govern it justly. Let them have their old laws and ancient customs, except a trial by jury and that they *should have*. Too much wisdom is painful—it conjures up too many evils. I fear we are too wise to do good. Our way is plain, it is the old way—but I am really afraid we are fond of projects—novelties. Our fears are chimerical. We should be bold and resolute. Tell that people you shall have justice, but you shall obey the laws. I have taken up much of your time, but coming from the westward, I have frequently been urged to tell my opinion—no arbitrary—no military government will do—we must give them a free government. We talk too much of the ignorance of that people they know more than what you think they do—they are not so plagay ignorant.

Mr. Jackson. Rome flourished while she confined herself within proper bounds—but she extended her limits too far—when she gratified her insatiable thirst for lands—the northern hordes overwhelmed and destroyed her. I fear this will be our case in the *south*. I never wish to see our people go beyond the Mississippi. We ought not to give them such a government as will afford them protection in their settlements. If you permit the settlement of that country, you will depreciate the value of your public lands and destroy the western states. I know the President approves of this eight[h] section.

Mr. Anderson. This 8th. section is a military despotism—its unconstitutional—its opposed to the spirit and genius of our constitution. The only power we have to legislate for that country is derived from the constitution—and we must give them a republican government—we can give them no other.

There never existed on earth a free Republican Government until the

present government of the United States.

This section establishes the former laws and government of Spain in that Country—and what those are we know not.

I know the settlement of Louisiana will materially injure Tennessee—it will injure all the western states—still we must give them a constitutional government. I am for preventing the settlement of that country by law, and I think our laws may be executed.

There is now about 8000 inhabitants in upper Louisiana—more than two thirds of them are Americans—most of them have emigrated from Virginia. They understand and will demand their rights.

If the President of the United States now approves of this 8th section—and should it be adopted, I will venture to say he will soon have cause to repent of it.

Mr. Dayton. I ask the gentleman (Mr. Anderson) where, and in what part of the Constitution does he find any authority to legislate for that Country. The constitution gives us no authority on the subject. We derive our power and right from the nature of government. That Country is a purchased territory and we may govern it as a conquered one.

A military government is the best and the only government you can prudently and safely establish in Upper Louisiana. A strong efficient government is essential. I hope we shall prevent the settlement of Upper Louisiana, not only for the present, but forever. If that country is settled, the people will separate from us—they will form a new empire—and become our enemies.

I believe we may induce the Indians on this side to remove to the other side of the Mississippi—and this will be a great and useful thing to us.⁵⁵

This section of the bill is important and will I hope be retained.

Mr. Wright. I am in favor of the section. The constitution requires that the governments of States should be republican, but not so of territorial governments. The Territorial governments in this Country are not, or is it necessary they should be, republican—none of them have the power to elect representatives. To extend the trial by jury to that country would be a denial of Justice—they live too remote from each other to derive any benefit from it.

Mr. Samuel Smith. This 8th section embraces a country in which there are settlements 800 miles distant from each other. A governor and three Judges cannot regulate their affairs. This section of the bill is in principle republican—we ourselves are their Legislators and the Commandants are only our agents.

Mr. Pickering. I think we are in an error in applying the Constitution to that country—it does not extend there. But we are bound by the treaty to extend protection to the people of that country, and secure to them their rights and privileges. We must consider and govern them as a colony.

Laws will never be sufficient to prevent the settlement of that country. If people find their interest in settling it, your prohibitions will prove unavailing.

⁵⁵ See Miss Abel in *Annual Report* of the American Historical Association for 1906, I. 241–249. Sect. 9 of the original bill in Breckinridge's manuscript provides for exchange of land by Indian tribes.

Mr. Brackenridge. I do not feel any constitutional difficulty as to the form of government. I am for giving them such a system as to me appears best. The provisions contained in this 8th section are arbitrary. There is no legislative authority given to that people. I am opposed to the section.

Mr. Nicholas. I am glad the section gives no legislative authority—that country needs none. I am inimical to change. Do as little for that people as possible. Let them have and enjoy their old laws and customs.

Mr. Wright. I would have such a despotic government in the territory of Upper Louisiana as should absolutely prevent people from settling it. I would remove those who are now settled there, if I could—but at all events I would let no more go there.

Mr. Cocke. I will always give a good government when I can. I will not do evil meerly because I have the power of doing so. The question.

The question was then taken and the 8th section was struck out—yeas 16. nays 9.

*See Journal of Senate p. 174.*⁵⁶

1804, Friday, Feby. 3d.

*The bill for the government of Louisiana under consideration.*⁵⁷

Mr. Jackson. I have high authority for saying it is the intention of our government to take effectual measures to induce all the Indians on this side of the Mississippi to exchange their lands for lands in upper Louisiana.⁵⁸ I think it a prudent and practicable measure—and that is one reason why I wish to prevent the establishment of a civil government in that territory. In the name of God have we not land enough for a settlement without this! I would buy up the title of those who have already gone there. The Indians would have gone there before this had not the Spaniards have prevented them. The Indian wars have cost us millions of dollars—and much blood. They are bad dangerous neighbors. There are already many Indians there—if you establish a civil government—if you permit settlers—you will find the expense of that government immense—it will render the purchase a curse.

Mr. Worthington. The Indiana Territory is as good soil and situation as Upper Louisiana. There has been settlers in the former for 100 years, and a civil government established for sometime—that government has not encreased settlers—and in *all* the Indiana Territory there are not now more 7000 souls.

Mr. Nicholas. I hope the Upper Louisiana will not for many, very many years, be admitted as a State or States—New Orleans, perhaps must soon be admitted as such.

Mr. Jackson. I move to annex Upper Louisiana to the Indiana Territory.

Mr. Brackenridge. I have little objections to this.

⁵⁶ Page 174 of the original edition; p. 349 of vol. III. of the reprint of 1821.

⁵⁷ Debate was apparently on an amendment not mentioned in the *Journal* but preserved in manuscript in the Senate files, giving Upper Louisiana a territorial government of the simplest form, with its own governor, secretary, and judges, and with legislative power vested in the governor and judges. This amendment is endorsed "Breckinridge".

⁵⁸ For Jefferson's course in this matter see Miss Abel, *loc. cit.*

Mr. Hillhouse. The government, laws, customs, manners and habits of the two countries are in direct opposition to each other. The regulations of the one cannot be established in the other. You cannot immediately effect such a change.

Mr. Saml Smith. I approve of the measure. It will lessen the number of offices and of course expence. I know it will estop slavery there, and to that I agree.

Mr. Wright. This is a new proposition, but I am in favor of it—it will lessen expence. I would unite the two territories governmentally but not territorially.

Mr. Hillhouse. Both of those Countries have separate *rights*, and by this regulation you will impair them both. The ordinance establishing the Indiana Territory created certain rights which are vested in the inhabitants of that territory. The people in Louisiana have their *rights* and we have by treaty guaranteed to them the enjoyment of those rights. If these territories are united who will legislate for them—must they be governed by different laws. This union will make one of the territories a mere colony to the other.

Mr. Wright. They must be governed by different laws.

Mr. John Smith. I cannot wholly approve of the motion. I think there is weight in the argument of the gentleman from Connecticut (*Mr. Hillhouse*). But I will accord with the majority. I should be better pleased if a part of Upper Louisiana was annexed to the Mississippi Territory.

Mr. Venable. I approve of the principle, but wish it modified. It is not yet settled that Louisiana is a part of the United States. I would not therefore annex the two territories together; but I would extend the authority of the government of the Indiana territory to the territory of Upper Louisiana.

1804, Tuesday, Feby. 7th

The bill for the government of Louisiana.

The debate on this bill was principally confined to the question whether people of *colour* should be necessarily disqualified and excluded from serving on juries. Excluded. Democrats in general voted in favor of exclusion.

1804, Wednesday, Feby. 8th.

Same Bill.

The amendment to annex the upper Territory of Louisiana to Indiana, was withdrawn. *Mr. Nicholas* offered an amendment authorizing the officers of the Indiana Territory to govern the Upper District of Louisiana—and establishing the existing laws of Louisiana in that district.⁵⁹ Adopted. Act as amended ordered to be printed.

The democratic senators held a Caucus last evening in which they settled the principles of the bill—and agreed to the same in the Senate without any debate.⁶⁰

⁵⁹ This amendment, in manuscript, is in the Senate files, and also appears in the bill as amended (and in the statute) as sect. 12.

⁶⁰ Some amendments offered on subsequent days appear in the *Journal*, but *Plumer* records no debates respecting them.

1804, Thursday, Feby. 16.

Louisiana bill. Salaries to the officers.

Governor Orleans

Mr. Jackson, Mr. Dayton	} reasoned in favor of \$8000 pr annum—7 only voted for it.
Mr. Saml Smith and Mr. Logan ⁶¹	

Mr. Brackenridge and John Smith for \$6000. 12 voted for it.

Mr. Olcott,⁶² Franklin and Cocke for \$5000. 18 voted for it—carried.

The salary to the Secretary	\$2000
Three Judges each	2000
District Judge	2000
Attorney	600
Marshall	200

The members of the Legislative Council each to have four dollars per diem while attending the Council.

In the course of this debate, Jackson and Samuel Smith observed “That the people must be governed more by pomp, parade and shew than by reason—that splendid retinue and armed men are more convincing than arguments.

1804, Friday, Feby. 17.

Louisiana bill.

*Mr. Stone.*⁶³ There are near 900,000 slaves in the U. S. and they are worth \$200,000,000. Slaves are property. The rights of property are by the Constitution guaranteed and why should the holders of this kind of property be prohibited from sending and selling their slaves in Louisiana?

Mr. McClay. That country was purchased to serve as an *outlet* for the U S.—to admit slaves there will defeat that object.

Mr. Jackson. It has been proposed to prohibit South Carolina from sending slaves into Louisiana, because she imports slaves from Africa. She has a right to do it. If you pass this prohibition you will offend that State—and I will venture to say very serious consequences will follow. I will speak plain—offend her and she will reject the amendment to the Constitution—and if she rejects it, it will never be ratified.

Some people laugh at the provision that the bill contains authorizing the President to make an exchange of lands in Louisiana with the Indians for their lands on this side of the Mississippi. Let me tell such, That this is a favorite measure of the President’s—he has assured me so. He has, this week, informed me that sixteen of the Cherokee Chiefs have already agreed to pass over to Louisiana and relinquish their lands on this side of the Mississippi.

⁶¹ George Logan, senator from Pennsylvania.

⁶² Simeon Olcott, senator from New Hampshire.

⁶³ David Stone, senator from North Carolina.

1804, Saturday, Feby. 18th.

Bill for the government of Louisiana.

Mr. Adams. This bill is to establish a form of government for the extensive country of Louisiana. I have from the beginning been opposed to it—and I still am. It is forming a government for that people without their consent and against their will.

All power in a republican government is derived from the *people*. We sit here under their authority.

The people of that country have given no power or authority to us to legislate for them. The people of the United States could give us none, because they had none themselves. The treaty has given us none, for they were not parties to it—it was made without their knowledge. To pass this bill is an encroachment on their rights—its a commencement of assumed power—its establishing a precedent for after Congresses destructive of the essential principles of genuine liberty.

The first territorial ordinance under the Confederation was made by the then Congress without any legal authority—but the Constitution afterwards sanctioned it.

This bill contains arbitrary principles—principles repugnant to our Constitution. The legislative Council are to be appointed by the Governor, who is a creature of the President's—not elected by the people.

The judges are to legislate—make laws and expound them—this is of the essence of tyranny.

In the other territorial governments, even in the departure from liberty, there is a reverence for it—for it provides that when its inhabitants are increased to a certain number they shall elect a representative.

This bill provides that the officers shall be appointed by the President *alone* in the recess of the Senate—why this departure from the Constitution.

The Judicial officers are to be appointed for a term of years only, and yet the bill is not limited. The constitutional tenure for judicial officers *is during good behavior*.

The first thing Congress ought to have done in relation to that Country, should have been to propose an amendment to the Constitution, to the several States to authorize Congress to receive that Country into the Union—we ought to have applied to the inhabitants of Louisiana to recognize our right to govern them. This we ought to have done, and there is no doubt that the States and that territory would have given the authority before the next session.

The 3d article of the treaty pledges the faith of the Nation to the inhabitants of that country that we will protect their persons, religion property and rights; but we have taken no measures to ascertain there numbers, religion or rights.

We have not the necessary information to pass a law containing the great fundamental principles of government. We know little of that people or Country. In thus passing this bill we commit an act of practical tyranny.

The bill contains incongruous articles—establishment of courts—juries—numerous laws—prohibition of slavery etc. This is a Colonial system of government. It is the first the United States have established. It is a bad precedent—the U. S. in time will have many colonies—precedents are therefore important.

The governor's appointing and proroguing the Council is an act of tyranny.

Tis too soon to extend the trial by jury to that Country. There are serious inconveniences attending this mode of trial—and those people have not laws, customs or habits to correct those evils. Extending juries to them in their present condition, will, I fear, excite opposition to the institution itself. Their present mode of trial is *summary*—no jury—a single judge decides. Trial by jury and delay are synonymous—by introducing it you establish new principles. What is meant by *vicinage* in that country? In law books it has a definite and precise meaning—it is confined to a County. There you have no Counties. Is it to extend thro' the whole country. Will it not give too much power to the judge—and will it not be burthensome and even oppressive to compel people from distant parts of that extended world (for such I may call it) to attend Courts of law as grand and petit jurors! The District court is to sit once in three months, and the Supreme Court once every month—the call for jurors will therefore be frequent.

The governor and judges of the Indiana territory are to govern Louisiana—will they not govern it in an arbitrary manner—will they not consider it as a colony to them?

The bill passed yeas 20 nays 5.

Aurora, Friday, Jan'y 27, 1804.

From Washington

Jan. 23, 1804

The senate were this day engaged on the bill concerning the Louisiana government, upon which there had been considerable discussion before I arrived. The principal points of contention appear to be how much of the operative part of our political institutions they can carry into direct effect—and the mode by which the whole of their spirit and principles may be most effectually introduced. I heard general S. Smith, Mr. Venable, general Jackson, Mr. Maclay, Mr. Franklin, and Mr. Breckenridge only—and as I have not heard the whole I shall give you merely a hasty sketch of the immediate course and scope of the debate.

The discussion was upon a motion to strike out a part of what related to the legislative council—which it was urged ought to be chosen in the first instance by the governor from the most fit and respectable settlers of the different parts of the country, who should be capable of giving information as to its state, interests, wants, and capacities; that the governor having a power to dissolve them at discretion would be a check upon factious dispositions; and being chosen annually by the governor who has to be responsible for the choice, no injury could arise; and information could be acquired of the state of things so as to introduce the representative element of our government gradually and progressively. It was urged that this mode was in the first instance necessary and expedient, as well from our want of full information as to the local dispositions of the Louisianians, as from the actual state of their minds from their long subjection to a mode of government so very different from our own; that if elections were to be made in the present state of things, as large districts are composed of persons who know nothing of our language much less of our institutions, some

Spanish, some French, a number of persons might be so chosen as would be from want of our language and information in our principles of government incapable of proceeding upon legislation and government.

On the other side it was contended that the districts of Louisiana in all parts possessed capable and well informed men, and many Americans, that these and the Acadians who had migrated to Louisiana from Nova Scotia were an intelligent people, and well acquainted with principles of government and law somewhat resembling our own; that the French could not be supposed ignorant or indifferent to subjects of civil liberty which so much agitated them in all parts of the world for several years, and that even the Spaniards themselves could not be supposed so barbarous as not to know the difference between liberty and despotism.

It was further contended on the same side, that, admitting the people of Louisiana to be next to a state of nature, it was not consistent with the 3d article of the treaty which possessed us of that country to let them remain so, having guaranteed to them in due time equal rights and laws with ourselves; that this was the first step to effect that extension of civil and political liberty to them; and that to withhold it would only be to perpetuate their ignorance. That ignorance is the great source of human enslavement, and that to remove that ignorance from a people you can never begin too soon; because even the experience of errors in their first efforts produces the best kind of knowledge that of experience; and that it was better they should begin to acquire this knowledge while few and young, than when numerous, and when their errors arising from ignorance might be more extensive and dangerous.—That we best understood what is fit and what will be good or acceptable in the eyes of others by placing ourselves in their situation and that if we were in their situation now we should hardly complain or object to the conduct of those who should proffer to us the same means of happiness, freedom and prosperity which had rendered our benefactors the admiration of mankind.

These were the leading points of arguments.