

Upon Mr. Wright's Resolution Concerning the Punishment of Treason

**HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
January 10, 1814.**

MR. WEBSTER said, that if the proposition were to consider whether it was necessary to provide additional legal punishments for any description of offences, he should see no objection to the reference of the subject to a committee. If illegal intercourse existed with the enemy, he should go as far as any one in applying constitutional remedies to that evil. But this resolution¹ proposes, in effect, to consider whether it is not expedient to try accusations for treason before military instead of civil tribunals. However glaring may be the idea, yet such is in truth the real nature of the proposition. It is to change the forum for the trial of treason. The mover of the resolution, and the gentleman from the State of Georgia (Mr. Troup), have not left any doubt on this subject. They have alluded to cases which they suppose the resolutions to embrace, and for which they deem it necessary to provide military punishment. But what is the nature of those cases? Are they not cases of treason? It is said information has been communicated to the enemy, very material to him, respecting the operations of our own forces, by citizens of the United States. Signals are said to have been made for this purpose on the St. Lawrence and elsewhere. Do gentlemen suppose that the act of communicating to the enemy important intelligence, whether by signals or otherwise, whereby he is the better able to defend himself, or attack his adversary, is not treason? Is not this giving to the enemy aid and comfort? May it not be in many

cases the most important service which can be rendered him? Certainly, sir, all such offences as gentlemen have mentioned are provided for by law, and adequate penalties annexed to the commission. The simple question before us is, whether we will consider the propriety of taking the power of trying for these offences from the courts of law, where the Constitution has placed it, and confer it on the military. Sir, the proposition strikes me as monstrous. I cannot consent to entertain the consideration of it even for a moment. It goes to destroy the plainest constitutional provisions. If it should prevail, I should not hesitate to pronounce it a most enormous stride of usurpation. Nothing, in any Government called a free one, even in the worst of times, has exceeded it. I am utterly shocked at the arguments offered in favor of it. When the mover was asked why, in the cases he mentioned, the offenders could not be punished for treasonable practices, I understood him to answer, that on trials for treason in the courts of law, the testimony of two witnesses is required; but if the trial could be transferred to a military tribunal, the two witnesses could be dispensed with. Are we now gravely to consider upon a proposition, of which this is among the professed objects? The gentleman from Georgia (Mr. Troup) observed, that when persons had been apprehended for offences, they had been rescued by *habeas corpus*, issued by the civil magistrate. And are we to deliberate whether it be not proper for us to prevent the delivery of the citizens of this country from illegal arrests and imprisonment by the interposition of their great constitutional remedy, their writ of *habeas corpus*? The Constitution contains no provision more valuable; it makes no injunction more

direct and imperative than those respecting trials for treason, and the benefit of the *habeas corpus*. Treason is not left to be defined, even by the highest courts of law. It was foreseen that, in times of commotion, victims might be sacrificed to constructive treason; that doctrine which, in other places and other times, has shed so much innocent blood, and which brought Algernon Sydney to the scaffold. The Constitution, therefore, defines treason, and prescribes the mode of proof. But what is there in the worst cases of construction of treason that can be compared, in point of enormity, to the proposition now before us? This is not to give a latitude of construction to the judge; it is to take the cause away from the judge, and carry it to the camp. Instead of indictment, arraignment, and trial, it proposes the summary process of martial law. If the proposition should pass into a law, it takes away the constitutional definition of the offence; it takes away the prescribed mode of proof; it takes away the trial by jury; it takes away the civil tribunal, and establishes the military. On a resolution of this sort, I cannot believe the House will consent to deliberate.

¹Resolved, That a Committee of the whole House be instructed to inquire into the expediency of extending the second section of the Act for the establishment of rules and articles for the government of the armies of the United States, relative to spies, to the citizens of the United States.