

MATTHEW LYON—HEIRS OF.

[To accompany bill H. R. No. 80.]

MARCH 5, 1840.

Mr. TURNEY, from the Committee on the Judiciary, submitted the following

REPORT:

*The Committee on the Judiciary, to whom was referred the petition of the heirs and legal representatives of Matthew Lyon, deceased, report:*

That this memorial received the favorable consideration of a select committee in 1820, and of the Judiciary Committee in 1832, in 1834, in 1836, and in 1838. They concur in the report made in 1832, adopt the same as a part of their report, and recommend the passage of the accompanying bill.

JANUARY 20, 1832.

*The Committee on the Judiciary, to whom was referred the petition of Chittenden Lyon and Matthew Lyon, heirs and representatives of the late Matthew Lyon, deceased, report:*

That in the month of October, 1798, the late Matthew Lyon, the father of the petitioners, at the circuit court held at Rutland, in the State of Vermont, was indicted and found guilty of having printed and published what was alleged to be a libel against Mr. John Adams, the then President of the United States. The alleged libel was in the following words, to wit: "As to the Executive, when I shall see the effects of that power bent on the promotion of the comfort, the happiness, and accommodation of the people, that Executive shall have my zealous and uniform support. But whenever I shall, on the part of our Executive, see every consideration of public welfare swallowed up in a continual grasp for power, in an unbounded thirst for ridiculous pomp, foolish adulation, and selfish avarice—when I shall behold men of real merit daily turned out of office for no other cause than independency of sentiment—when I shall see men of firmness, merit, years, abilities, and experience, discarded in their applications for office, for fear they possess that independence, and men of meanness preferred for the ease with which they can take up and advocate opinions, the consequence of which they know but little of—when I shall see the sacred name of religion employed as a State engine to make mankind hate and persecute each other, I shall not be their humble advocate!" The second count in the indictment, on which the said Matthew Lyon was convicted, charged him with printing and publishing a seditious writing or libel, entitled "Copy of a letter from an American diplomatic character in France (Mr. Joel Barlow) to

a member of Congress in Philadelphia," which was in the following words, to wit: "The misunderstanding between the two Governments has become extremely alarming; confidence is completely destroyed; mistrusts, jealousies, and a disposition to a wrong attribution of motives, are so apparent as to require the utmost caution in every word and action that are to come from your Executive—I mean if your object is to avoid hostilities. Had this truth been understood with you before the recall of Monroe—before the coming and second coming of Pinckney; had it guided the pens that wrote the bullying speech of your President, and stupid answer of your Senate, at the opening of Congress in November last, I should probably have had no occasion to address you this letter. But when we found him borrowing the language of Edmund Burke, and telling the world that, although he should succeed in treating with the French, there was no dependence to be placed in any of their engagements; that their religion and morality were at an end, and they had turned pirates and plunderers, and that it would be necessary to be perpetually armed against them, though you are at peace; we wondered that the answer of both Houses had not been an order to send him to the mad-house. Instead of this, the Senate have echoed the speech with more servility than ever George the Third experienced from either House of Parliament."

The court deemed both the publications above recited libellous, under the 2d section of the act commonly called the sedition law, passed the 4th July, 1798; which section is as follows, viz: "*And be it further enacted*, That if any person shall write, print, utter, or publish, or shall cause or procure to be written, printed, uttered, or published, or shall knowingly and wilfully assist or aid in writing, printing, uttering, or publishing, any false, scandalous, and malicious writing or writings, against the Government of the United States, or either House of the Congress of the United States, or of the President of the United States, with an intent to defame the said Government, or either House of the said Congress, or the President, or to bring them, or either of them, into contempt or disrespect, or to excite against them, or either or any of them, the hatred of the good people of the United States, &c., then such person, being thereof convicted before any court of the United States having jurisdiction thereof, shall be punished by a fine not exceeding two thousand dollars, and by imprisonment not exceeding two years."

Upon this indictment Matthew Lyon was convicted, and sentenced by the court to be imprisoned for four months; to pay a fine of one thousand dollars, and the costs of the prosecution, taxed at sixty dollars and ninety-six cents; and to stand committed until the fine and costs were paid: which were paid, as appears by the exemplification of the record of the said trial and proceedings, now in the archives of this House.

The committee are of opinion that the law above recited was unconstitutional, null, and void, passed under a mistaken exercise of undelegated power, and that the mistake ought to be corrected by returning the fine so obtained, with interest thereon, to the legal representatives of Matthew Lyon.

The committee do not deem it necessary to discuss at length the character of that law, or to assign all the reasons, however demonstrative, that have induced the conviction of its unconstitutionality. No question connected with the liberty of the press ever excited a more universal and intense interest—ever received so acute, able, long-continued, and elaborate investigation—was ever more generally understood, or so conclusively settled by

the concurring opinions of all parties, after the heated political contests of the day had passed away. All that now remains to be done by the representatives of a people who condemned this act of their agents as unauthorized, and transcending their grant of power, to place beyond question, doubt, or cavil, that mandate of the constitution prohibiting Congress from abridging the liberty of the press, and to discharge an honest, just, moral, and honorable obligation, is to refund from the Treasury the fine thus illegally and wrongfully obtained from one of their citizens: for which purpose the committee herewith report a bill.

