

ate to adopt in vindication of its privilege and authority; and that such committee have power to send for persons and papers.

The Senate, by unanimous consent, proceeded to consider the said resolution, and agreed thereto; and

Mr. Archer, Mr. Benton, Mr. Crittenden, Mr. McDuffie, and Mr. Sevier, were appointed the committee.

WEDNESDAY, MAY 8, 1844.

Mr. Archer, from the Select Committee appointed on the 29th ultimo, made the following report:

The Select Committee to which was referred a resolution instructing them to "inquire whether any documents or papers directed by the Senate to be printed confidentially for its use have been made public in violation of such order, and, if such prove to be the fact, in what manner and by whose agency or participation such publication has been made, and what proceedings it may be proper to adopt in vindication of its privilege and authority," have had the same under consideration, and report:

That, in prosecution of the inquiry devolved upon them, they have ascertained that on the 27th day of April just past, there appeared in the Evening Post, a newspaper published in the city of New York, and of which a certain William G. Boggs appears in the titlepage of the same to be the authorized publisher, the Executive communication to the Senate containing a treaty signed with the Republic of Texas, and accompanying documents, read on the 22d of April, and ordered to be printed confidentially for the use of the Senate. On the ascertainment of this fact, they proceeded forthwith to direct a process to be served on the said William G. Boggs, requiring his attendance before them, with the matter of which he had given notice of publication in his paper of the 27th of April, being the Executive communication and documents hereinbefore referred to.

In the interval, however, before the period indicated for the return of this process, a letter was addressed to the chairman of the committee, under date the 30th of April, by the honorable Benjamin Tappan, a Senator from the State of Ohio, in which he informed the committee that he had reason to believe that the publication in question had been made from the copy of the documents furnished him under the rules of the Senate, which he had given to a person about leaving the city for New York, "with no injunction of concealment." From the examination of Jonathan D. Stevenson before the committee, which took place in the presence of Mr. Tappan, it appears that he was the person to whom the document was delivered by Mr. Tappan, without the protection of an envelope, with an express permission to peruse the contents, and with a request to the said Stevenson to become the instrument of its conveyance to one of the editors of the newspaper in which the publication subsequently appeared. The letter of Mr. Tappan, and corroborative statements of Messrs. Stevenson and Boggs, under oath, are subjoined to this report.

The fact of the violation of the order of the Senate being thus established, and the persons ascertained by whose "agency and participation" it has been accomplished, the committee have been further directed, in such event, to inquire "what proceedings it may be proper for the Senate to adopt in vindication of its privilege and authority."

The committee regard the exposure of a document which the Senate have seen fit to order should be held in confidence, as a grave offence, not only from the disrespect which it involves to the high authority of that body, but from the peculiar mischievousness of the effects with which the impairment of its authority in this respect might be attended. Occasions must occur, in the progress of the Government, in which a free communication and entire unreserve, between the two branches of the Executive, the President and the Senate, will be required, in relation to transactions the premature or undue exposure of which would operate very detrimentally to the public interests. Nor can occasions or subjects be supposed to which this remark has an application more appropriate or forcible, than those of negotiations with foreign Powers, in relation to which disclosure at improper moments of depending proceedings might be fraught with imputation on the faith of the Government, frustration of high objects of public policy, diffidence on the part of the other Governments to negotiate with us on delicate transactions, and a distrust on the part of the head of the Executive, not only preventing important communications to the Senate, but repressive of that freedom of consultation and advisement which might be eminently conducive to the public service. It were superfluous to add, that no guaranty remains for the avoidance of these mischiefs, and the preservation of the required confidence and comity between the branches of the Executive, if detected examples of the breach of this confidence be permitted to pass without an adequate reprehension. In the instance under consideration the committee have to regret that the violation of the confidence reposed by the head of the Executive in the Senate, and by the Senate in the fidelity of its own members to its honor and authority, has been brought home to a member of the body as the source of the outrage. The act, too, has been designed, deliberate, and, as far as the committee can perceive, is marked by no color of excuse.

Two cases of similar proceeding on the part of members of the Senate have presented themselves to the research of the committee. The first appears to have occurred before the adoption of the present rule inhibiting disclosure as regards proceedings on treaties, which will be found to explain the omission of any resolution of censure on the occasion. In the second instance, a resolution affirming that the member had been guilty of a violation of the rules of the Senate (evidently designed as a mild form of censure) was adopted. The offence in that case (the use of papers in the Senate, communicated confidentially some years previously) admitted of being explained into misapprehension, and wanted, therefore, the aggravation of the present case, in which the breach of the rule of the Senate has been deliberate, and presents no aspect of extenuation. Attaching to a member of the Senate, the committee are restrained, by the parliamentary rule in that respect, from recommending the measure of censure for which the offence may appear to call, and are only permitted to refer the facts to the Senate, for the immediate exercise of cognizance.

The report was read.

Mr. Archer submitted the following resolutions:

Resolved, That Benjamin Tappan, a Senator from the State of Ohio, in furnishing for publication in a newspaper documents directed by an order of the Senate to be printed in confidence for its use, has been guilty of a flagrant violation of the rules of the Senate and contempt of its authority.

Resolved, That the following be added to the standing rules of the Senate:

"Any officer or member of the Senate convicted of disclosing for publication any written or printed matter directed by the Senate to be held in confidence, shall be liable, if an officer, to dismissal from the service of the Senate, and in the case of a member to suffer expulsion from the body."

FRIDAY, MAY 10, 1844.

On motion, by Mr. Archer, the Senate proceeded to consider the first resolution submitted by him on the 8th instant; and

After debate,

Mr. Archer, by unanimous consent, had leave to withdraw the said resolution.

Mr. Archer submitted the following resolution:

Resolved, That Benjamin Tappan, a Senator from the State of Ohio, having been found by the Senate to have been guilty of a flagrant violation of its rules and contempt of its authority, constituting a case of high breach of trust, be, for such offence, and hereby is, expelled.

The Senate, by unanimous consent, proceeded to consider the said resolution; and

After debate,

On motion, by Mr. Bayard, that the said resolution be amended by striking out all after the word "Resolved," and inserting the following in lieu thereof:

"That Benjamin Tappan, a Senator from the State of Ohio, having wilfully and deliberately violated the 38th rule of the Senate, in making known and causing to be published in a newspaper printed in the city of New York, before the injunction of secrecy has been removed, a copy of the treaty of annexation concluded between the United States of America and the Republic of Texas, at Washington, on the 12th day of April, 1844, with the accompanying correspondence communicated to the Senate by the President of the United States, has incurred the just censure of the Senate, and shall receive its reprimand through the presiding officer, who is hereby directed to give the same in the presence of the Senate."

After debate,

On motion, by Mr. Simmons, that the amendment proposed by Mr. Bayard be amended by striking out all after the word "Ohio," and inserting in lieu thereof the following:

"In furnishing for publication in a newspaper documents directed by an order of the Senate to be printed in confidence for its use, has been guilty of a flagrant violation of the rules of the Senate and disregard of its authority."

After debate,

On the question, to agree to the amendment proposed by Mr. Simmons,

It was determined in the affirmative, { Yeas, 33
 } Nays, 12

On motion by Mr. Allen,

The yeas and nays being desired by one-fifth of the Senators present,

Those who voted in the affirmative, are,

Messrs. Allen, Atchison, Atherton, Bagby, Barrow, Bates, Benton, Berrien, Breese, Buchanan, Choate, Clayton, Crittenden, Evans, Fairfield,

Francis, Fulton, Hannegan, Henderson, Huntington, Jarnagin, Johnson, Lewis, Morehead, Porter, Semple, Sevier, Simmons, Sturgeon, Walker, White, Woodbury, Wright.

Those who voted in the negative, are,

Messrs. Archer, Bayard, Haywood, Huger, McDuffie, Mangum, Merrick, Miller, Phelps, Rives, Tallmadge, Woodbridge.

So the amendment was agreed to.

After debate,

On the question, to agree to the amendment proposed by Mr. Bayard as amended,

It was determined in the affirmative, { Yeas, 38,
 { Nays, 7.

On motion by Mr. Allen,

The yeas and nays being desired by one-fifth of the Senators present,

Those who voted in the affirmative, are,

Messrs. Allen, Atchison, Atherton, Bagby, Barrow, Bates, Bayard, Benton, Berrien, Breese, Buchanan, Choate, Clayton, Crittenden, Evans, Fairfield, Francis, Fulton, Hannegan, Henderson, Huntington, Jarnagin, Johnson, Lewis, Miller, Morehead, Porter, Rives, Semple, Sevier, Simmons, Sturgeon, Tallmadge, Walker, White, Woodbridge, Woodbury, Wright.

Those who voted in the negative, are,

Messrs. Archer, Haywood, Huger, McDuffie, Mangum, Merrick, Phelps.

So the amendment proposed by Mr. Bayard, as amended, was agreed to.

After debate,

On the question, to agree to the resolution submitted by Mr. Archer, as amended,

It was determined in the affirmative, { Yeas, 35,
 { Nays, 7.

On motion by Mr. Allen,

The yeas and nays being desired by one-fifth of the Senators present,

Those who voted in the affirmative, are,

Messrs. Atchison, Bagby, Barrow, Bates, Bayard, Berrien, Breese, Choate, Clayton, Crittenden, Evans, Francis, Fulton, Haywood, Henderson, Huger, Huntington, Jarnagin, Johnson, Lewis, McDuffie, Merrick, Miller, Morehead, Phelps, Porter, Rives, Semple, Sevier, Simmons, Sturgeon, Tallmadge, White, Woodbridge, Woodbury.

Those who voted in the negative, are,

Messrs. Allen, Archer, Atherton, Benton, Buchanap, Mangum, Wright.

So it was

Resolved, That Benjamin Tappan, a Senator from the State of Ohio, in furnishing for publication in a newspaper documents directed by an order of the Senate to be printed in confidence for its use, has been guilty of a flagrant violation of the rules of the Senate and disregard of its authority.

Mr. Archer submitted the following resolution :

Resolved, That, in consideration of the acknowledgment and apology tendered by the said Benjamin Tappan for his said offence, no further censure be inflicted on him.

The Senate, by unanimous consent, proceeded to consider the said resolution.

On the question, to agree thereto,

It was determined in the affirmative, { Yeas, 39,
 { Nays, 3.

