

## To Thomas Jefferson

DEAR SIR

March 4. 1798

Your two favors of the 15 & 22 Ult: came to hand by friday's mail. I can wait without inconvenience for the Sprigs &c. till you return & reestablish your Cutting machine. Mr. Tazewell's Speech is really an able one in defence of his proposition to associate juries with the Senate in cases of impeachment. His views of the subject are so new to me, that I ought not to decide on them without more examination than I have had time for. My impression has always been that impeachments were somewhat *sui generis*, and excluded the use of Juries. The terms of the amendment to the Constitution are indeed strong, and Mr. T. has given them, as the French say, all their lustre. But it is at least questionable whether an application of that amendment to the case of impeachments would not push his doctrine farther than he himself would be disposed to follow it. It would seem also that the reservation of an ordinary trial by a jury must strongly imply that an impeachment was not to be a trial by **[89]** jury. As removal & disqualification, the punishments within the impeaching jurisdiction, were *chiefly* intended for offences in the Executive line would it not also be difficult to exclude Executive influence from the choice of juries; or would juries armed with the impeaching power, and under the influence of an unimpeachable Tribunal, be less formidable than the power as hitherto understood to be modified. The universality of this power is the most extravagant novelty that has been yet broached, especially coming from a quarter that denies the impeachability of a Senator. Hardy as these Innovators are, I can not believe they will venture yet to hold this inconsistent & insulting language to the public. If the conduct & sentiments of the Senate on some occasions were to be regarded as the natural & permanent fruit of the institution, they ought to produce not only disgust but despair in all who are really attached to free Government. But I can not help ascribing some part of the evil to personal characters, and a great deal of it to the present spirit of the Constituents of the Senate. Whenever the State Legislatures resume the tone natural to them, it will probably be seen, that the tone of their Representatives will vary also. If it should not, the inference will then be unavoidable that the present constitution of the Senate is at war with the public liberty. If the countervailing act<sup>1</sup> does not open the mouths & eyes both, of the Eastern Carriers, it will be a political phenomenon without example. In the year 1789, G. B. had about 230 & America 43 thousand of the tonnage in the mutual trade. The encouragements given by Congress,<sup>2</sup> & which G. B. did not dare to countervail till Jay tied our hands from continuing the advantage on the side of America, have brought up the American share to about one half. The bounties now secured to the British Tonnage will pretty certainly reduce our proportion below its original scantiness.<sup>3</sup> And if the French as may be expected, should suffer their disgust at the British Treaty to dictate their navigation policy towards us, Jay will have accomplished more than perhaps was ever done by the same personal talents: he will have annihilated the marine of a maritime Country by a single stroke of his pen; and what is still more extraordinary recd. the plaudits of the victims, whom he has sacrificed. I am curious to see how the zealots for expelling Lyon will treat the deliberate riot of Griswold.<sup>4</sup> The whole affair has been extremely disgraceful, but the dignity of the Body will be wounded, not by the misconduct of individual members which no public body ought to be answerable for, but by the misconduct of itself, that is of a majority, and it is to be feared that the majority in this case are ready for every sacrifice to the spirit of party which infatuates them. The greatest sinners among them are Sewal & Harper<sup>5</sup> who forced the offensive business on the House. We have had lately about 4½ inches of snow. On the 22d. however, the day on which it was snowing as you observe in your **[90]** letter, it was throughout fair here. On the 21st. day & night together there fell ⅝ of an inch; & on the night of the 23⅛ of an inch of rain. Yrs. always & Affecy.

RC (DLC). Unsigned. Addressed by JM to Jefferson and marked "*private*." Docketed by Jefferson, "recd. Mar. 13."

<sup>1</sup> Someone, possibly JM at a later time, here interlined "[of G. B]."

<sup>2</sup> The "encouragements given by Congress" referred to the tariff and tonnage laws enacted by the First Congress, which encouraged U.S. commerce by discriminating against foreign shipping (Bemis, *Jay's Treaty*, pp. 52–55).

<sup>3</sup> At a later time JM placed an asterisk here and wrote in the bottom margin: "'this prevented by the war in Europe & the neutrality of the U. States.'"

<sup>4</sup> See Jefferson to JM, 8 Feb. 1798, and n. 3.

<sup>5</sup> Someone, possibly John C. Payne, interlined "those" in place of "Sewal & Harper." Samuel Sewall of Massachusetts brought in the resolution to expel Matthew Lyon from the House of Representatives. Robert Goodloe Harper of South Carolina wanted to supplement the first resolution with another, censoring Lyon for an expression he made "so outrageous, so gross, and indecent, that no gentleman yet had been able to repeat it." The two Federalist members were the most vociferous in the attempts made to expel Lyon (*Annals of Congress*, 5th Cong., 2d sess., 955, 981).

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