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Nineteenth Congress.

FIRST SESSION.

IN THE SENATE.

MONDAY, Jan. 23, 1826.

Mr. Holmes, from the committee on Finance, to whom was referred the bill to secure the accountability of public officers and others, reported the same with sundry amendments, which were read.

Mr. Berrien presented the memorial of the citizens of St. Mary's, in Georgia, and its vicinity, praying the establishment of a Navy Yard there.

Mr. Marks presented the petition of sundry agriculturists, citizens of Pennsylvania, praying that such a duty may be laid on foreign ardent spirits as may prevent its importation; and Mr. M. moved its reference to the committee on Agriculture.

Mr. Macon thought, that as such a measure would be the same as a tax bill, which this House could not originate, it would not be worth while to refer the petition. If such a bill were to come from the other house, then this petition might properly be referred with it to the committee on Finance; but its reference now would be premature and useless.

The memorial having been read, at the instance of Mr. Marks.

The question was then taken on the reference to the committee on agriculture, and decided in the affirmative.

CASE OF COM. PORTER.

On motion of Mr. Dickerson of N. J. the Senate proceeded to the consideration of the following report of the committee on Naval Affairs, made some days ago:—

"The committee on Naval Affairs, to whom was referred a letter from capt. David Porter, of the United States' Navy, "requesting an investigation of charges contained in communications from Thomas Randall and John Mountain;" and to whom was also referred a letter from Thomas Randall, on the same subject, together with a communication from the Secretary of the Navy, covering "the proceedings of the Court of Inquiry and Court Martial in relation to Capt. David Porter," report:

"That they have had these several communications under consideration, and find nothing in the character of the transactions to which they relate, that requires the interference of this House.

["It appears that the case of captain Porter has been submitted to the proper tribunals; and the committee do not feel themselves warranted in forming any opinion unfavorable to their decisions, or indulging any impression that their proceedings require revision. The committee consider it due alike to the preservation of a proper discipline, and to the reputation of our officers, that appeals should not be encouraged from the decisions of the military courts. Under this view of the subject, and seeing no satisfactory reasons for interposing the authority of the House in matters which have been finally settled by the competent authorities,] the committee ask leave to be discharged from the further consideration of the subject."

The report having been read—when a debate arose of some length, after which Mr. Dickerson then moved to recommit the report of the Naval Committee, with instructions to strike out all that part thereof which is embraced in brackets, as above; and

The question being taken on this motion to recommit the report, it was carried, 17 to 13.

OHIO SCHOOL LANDS.

On the motion of Mr. Ruggles, the Senate resumed the consideration of the bill from the House of Representatives, authorizing the sale of lands granted to the several townships in the state of Ohio, for the support of education

The bill was ordered to a third reading by a large majority; and

The Senate adjourned.

TUESDAY, Jan. 24.

The Vice President communicated a report from the Secretary of the Treasury, accompanied by statements shewing the payments made for the discharge of miscellaneous claims during the year 1825, not otherwise provided for; the contracts made for oil, light-houses, buoys, stakeages, &c.; the contracts and purchases made by the Collectors for the revenue service during the year 1824; and the expenditures on account of sick and disabled seamen, during the year 1824.

The report was read.

Mr. Bell, from the joint Committee, appointed the 22d ultimo, on the subject, reported a "joint resolution to provide for the care and preservation of the Capitol and Capitol Square, in the City of Washington."

Mr. Hayne, from the committee on Naval Affairs made a report in the case of Commodore Porter, amended according to the instructions given yesterday by the Senate, and on motion of Mr. Hayne, it was immediately concurred in.

Mr. Chandler, from the Committee on the Militia, to whom the subject was referred, reported a bill authorizing the printing and distribution of the Infantry Tactics, or rules for the exercises and manœuvres of the Infantry of the United States, and the general regulations of the Army; which was read and passed to a second reading.

[60,000 copies are by the bill ordered to be printed by Cummings and Hilliard, to be distributed amongst the several States and Territories, and the District of Columbia, for the use of the militia, and 15,000 dolls. is appropriated to defray the expense of printing, binding &c.]

The Senate then proceeded to the consideration of Executive business, and remained with closed doors till three o'clock, and then

The Senate adjourned.

WEDNESDAY, Jan. 25.

Mr. Harrison laid the following resolution on the table:

Resolved, That the President of the United States be requested to lay before the Senate the message of Mr. Jefferson recommending an expedition across the continent to the mouth of Columbia River, together with any other information which he may possess, and think proper to communicate in relation to the same subject.

DISCRIMINATING DUTIES.

The Senate proceeded to the consideration of the following bill, reported by the Committee on Commerce, "in addition to an act, entitled "an act concerning discriminating duties on tonnage and impost."

"*Be it enacted, &c.* That, upon satisfactory evidence being given to the President of the United States, by the government of any foreign nation, that no discriminating duties of tonnage or impost, to the disadvantage of the United States, are imposed or levied in the ports of the said nation upon vessels wholly belonging to citizens of the United States, or upon the produce, manufactures, or merchandise, imported in the same from the United States, or from any foreign country, the President is hereby authorized to issue his proclamation, declaring that the foreign discriminating duties of tonnage and impost, within the United States are, and shall be, suspended and discontinued, so far as respects the vessels of the said foreign nation, and the produce, manufactures or merchandise, imported into the United States in the same, from the said foreign nation, or from any other foreign country; the said suspension to take effect from the time of such notification being given to the President of the United States, and to continue so long as the reciprocal exemption of vessels, belonging to citizens of the United States, and their cargoes as aforesaid, shall be continued, and no longer."

Mr. Lloyd addressed the Senate in a speech of some length, in support of the principle of the bill.

The bill was then, without further debate, ordered to be engrossed and read a third time.

The Senate then took up the bill "to secure the accountability of public officers," and after debating upon its provisions, it was laid on the table, and the Senate adjourned.

THURSDAY, Jan. 26.

The resolution submitted yesterday by Mr. Harrison, on the subject of Mr. Jefferson's message, recommending an expedition across the continent to the mouth of the Columbia River, &c. was taken up, and on motion of Mr. Chandler, again laid on the table.

The engrossed bill, "in addition to an act, entitled 'An act concerning discriminating duties on tonnage and impost.'" was read a third time, PASSED, and sent to the other House for concurrence.

And then the Senate adjourned.

SATURDAY, Jan. 21.

The Senate did not sit to-day.

HOUSE OF REPRESENTATIVES.

Mr. Storrs, from the Committee on Naval Affairs, made the following report:

"The Committee on Naval Affairs, to whom was referreed the memorial of *Isaac Phillips*, formerly a post captain in the Navy of the United States, respectfully report:

"That the memorialist was appointed a captain in the navy, on the 3d day of July, 1798, and ordered to the command of the sloop of war Baltimore, then employed on the American coast; and during her cruise, while convoying several American merchantmen to the Havana, she fell in with a British squadron near that port, under the command of Commodore Loring, by whose orders she was boarded by a British lieutenant and party of men, who mustered her crew and took away a number of her seamen. On the return of the memorialist to the United States, he was, by an order addressed to him by the then secretary of the navy department, on the 10th day of January 1799, dismissed from the naval service, for alledged misconduct on that occasion He now prays to be restored to his rank of post captain in the navy; and states that his dismission was not sanctioned by the Executive department; and that the letter of the secretary of the navy was written without the authority or knowledge of the president. That the circumstances under which he was placed, when his command of the said sloop of war was violated, were such, for the reasons alleged by him, that his dismission was not justified by any misconduct on his part; and that the executive department possessed no power to separate him from the naval service without a trial by court martial.

"The committee are of opinion, that it would be wholly unsafe to act upon the suggestion that the order referred to was issued without authority; and that if the subject of relief to the memorialist was even properly addressed to the legislative power of Congress, yet the lapse of time since this order was issued, his acquiescence until this period, and the consequent injurious, if not unjust disturbance of rank which might be produced in the naval service, present insuperable objections to any examination of the circumstances which, in the opinion of the President, required that exercise of executive authority in the case of the memorialist.

"The committee, therefore recommend to the House the following resolution:

"Resolved, That the petitioner have leave to withdraw his petition."

The report was read and laid on the table.

Mr. Carter, of South Carolina, offered the following resolution:

Resolved, That the Secretary of the Navy be required to inform this House whether any, and if any, what experiments have been made in the trimming and equipment of any of the vessels of the United States' Navy, to test the utility of cotton for cordage or sail cloth; and, also, what are the comparative strength and cost of such manufactures of that article, and those of hemp.

The resolution lies one day.

Mr. Dorsey, of Maryland, offered the following:

Resolved, That the Secretary of War be instructed to report if the Corps of Cadets at the Military Academy at West Point can be increased without incurring the expense of employing an additional number of Professors, and, if so, to what number the same may be increased; and the number of applicants for admission, and their names and the states in which they respectively reside.

This resolution also lies one day.

The Speaker laid before the House a letter from the Department of War, communicating a report of the Chief Engineer, communicating the information called for on the 9th inst. respecting the survey and location of the road from the right bank of the Ohio, opposite to Wheeling, through Ohio, Indiana, and Illinois to Missouri; and the progress that is making in the construction of the same, and the cost and manner of its execution; which was laid on the table.

JUDICIAL BILL.

The House then passed to the unfinished business of Thursday, and the question being on the following resolution, offered by Mr. Mercer, of Virginia—

Resolved, That the bill be recommitted to the committee that brought it in, with an instruction so to amend it as it discharge the Judges of the Supreme Court from attendance on the Circuit Courts of the United States; to provide for the gradual reduction of the present number to five; and, further, to provide an uniform efficient system for the administration of justice in the inferior Courts of the United States.

Mr. Mercer modified the resolution, by omitting that clause in the instruction which goes to reduce the number of the Judges of the Supreme Court to five.

Mr. Hemphill, of Pennsylvania, then delivered his sentiments, at length, in opposition to the original bill and in favor of the amendment contained in the instructions.

He was succeeded by Mr. Markell, of New York, on the same side, who spoke till near four o'clock.

Mr. Burges, of Rhode Island, then rose to address the House; but, expressing a sense of indisposition and fatigue, Mr. Pearce, of Rhode Island, moved that the House adjourn, but withdrew his motion at the suggestion of the Speaker, until a message, which had been received from the President of the United States, transmitting reports from the Secretary of War and the Commissioner of the General Land Office, containing information in relation to the number of Land warrants which have been issued to the officers and soldiers of the Revolutionary army, had been read, laid on the table, and ordered to be printed.

And then the House adjourned.

MONDAY, Jan. 23.

Mr. Forsyth, from the Committee on Foreign Relations, reported

"A bill to provide for the apprehension and delivery of deserters from French ships, in the ports of the United States.

The bill was twice read and committed.

MILITARY ACADEMY.

The following resolution, offered by Mr. Dorsey, of Maryland, was taken up:

Resolved, That the Secretary of War be instructed to report if the Corps of Cadets at the Military Academy at West Point, can be increased without incurring the expense of employing an additional number of Professors, and, if so, to what number the same may be increased; and the number of applicants for admission, and their names and the states in which they respectively reside.

After some debate, the resolution was adopted in the following form:

"Resolved, That the Secretary of War be instructed to report if the Corps of Cadets at the Military Academy at West Point, can be increased without incurring the expense of employing an additional number of Professors; and, if so, to what number the same may be increased."

The Speaker laid before the House a communication from the President of the United States, accompanied by a report from the Treasury Department, containing a statement of moneys paid to James Monroe, late President of the United States, as compensation for his services in various other offices which he has filled under the Government of the United States, and on other accounts; and also of claims for allowances made by him upon the Government, which have been disallowed; which was referred to the Select Committee and ordered to be printed.

JUDICIAL SYSTEM.

The House then passed to the unfinished business of yesterday, which was the consideration of the resolution offered by Mr. Mercer, of Vir. to recommit the bill to extend the Judicial System of the United States with instructions, &c.

Mr. Burges, of R. I. rose, and addressed the Chair in a speech which he concluded at four o'clock, when Mr. Kerr of Maryland, expressing a desire to address the House on the amendment, moved an adjournment.

Mr. Webster hoped he would withdraw the motion, as the discussion had already been so much protracted. But Mr. K. not complying, the question was put and carried, Ayes 83, noes 81.

So the House adjourned.

TUESDAY, Jan. 24.

Mr. Holcombe, from the Committee on Naval Affairs, made a report on the petition of Susan Decatur, accompanied by a bill in favor of the objects thereof: which was twice read and committed.

On motion of Mr. Adams, of N. Y. it was

Resolved, That the committee on roads and canals be instructed to inquire into the expediency of a survey being made of the following described route, with a view to a canalling operation, viz: The valley of the Allegany river from Pittsburg in Pennsylvania to Olean Point in the state of New York, from thence to the valley of the Olean and Ithua Creeks to Lime Lake, thence to Little Lake, and following the valley of the Tonnewanta Creek to Batavia, in Genessee county, New York thence on the most eligible route to the Erie Canal in New York, or such other route from the Olean Point to the said Erie Canal as shall be most eligible for the uniting of the said waters. And if deemed advisable, to solicit of the people of the United States, the favor of having the survey made by one or more of the corps of Engineers, and to report the result of such survey accordingly.

JUDICIARY BILL.

The House then proceeded to the unfinished business of yesterday, which was, the resolution offered by Mr. Mercer to recommit the bill "further to amend the judicial system of the United States," with instructions to report it with certain amendments thereto, as heretofore stated.

The question being taken, without debate, on this motion, it was decided in the negative.

Mr. Bartlett, of N. H. then moved to recommit the bill, with the following instructions:

"So as to provide that the several district courts of the United States shall be required to perform such part of the duties which are now devolved upon the circuit courts, as shall render but one term of the circuit courts necessary in each district annually, and that a justice of the supreme court of the U. S. shall be required to hold one term of the circuit court in each district in each year."

Wishing, however, to accommodate the gentleman who, by the usage of the House, was entitled to the floor, (Mr. Kerr, of Md. who yesterday moved the adjournment,) Mr. B. afterwards withdrew the motion for amendment.

Mr. Webster then moved that the bill be ordered to be engrossed for a third reading.

Mr. Kerr now entered the House; (having been previously accidentally detained from it) and addressed the chair in a speech, which occupied more than an hour, in favor of the bill.

Mr. Forsyth of Georgia, then moved to amend the bill, by striking out all after the enacting clause, and inserting the following:

"That for the better establishment of the circuit courts of the United States, the said states shall be, and hereby are classed into seven circuits, in manner following, that is to say: The first Circuit shall consist of the states of Maine, New Hampshire, Rhode Island and Massachusetts—the second, of the states of New York, Vermont and Connecticut—the third, of the states of Pennsylvania, New Jersey and Delaware—the fourth, of the states of Maryland, Virgirginia and North Carolina—the fifth, of the states of South Carolina, Georgia, Alabama and Tennessee—the sixth, of the states of Indiana, Illinois, Missouri and Ohio—the seventh of the states of Kentucky, Louisiana and Mississippi."

Mr. Webster spoke in opposition to the amendment.

Mr. Bartlett then explained the plan contained in the amendment which he had before offered.

The question was now loudly demanded when

Mr. Forsyth proceeded further to explain the system proposed in his motion for amendment, and to combat the arguments against it, which had been advanced by Mr. Webster.

Mr. Webster replied and argued in favor of the original bill; several objections to which he considered.

Mr. Mercer, of Va. made some explanations, and stated some facts, as to the attendance of the Judges on their circuit duties, and on those of the Supreme Court, which he thought were incompatible.

Mr. Alston, of North Carolina, then spoke in favour of Mr. Forsyth's amendment, and in reply to Mr. Webster; and concluded his speech by moving that the bill lie on the table and the proposed amendment be printed.

This motion was negatived by a large majority.

And the question recurring on Mr. Forsyth's amendment, Mr. Livingston of Lou. stated some facts in reply to those which had been mentioned by Mr. Mercer.

Mr. Forsyth again spoke in opposition to the bill.

The question being then taken on his motion for amendment, it was decided in the negative.

Mr. Kremer, of Pa., now moved to recommit the bill, with instructions to amend it so as to embrace the arbitration principle.

The Chair pronounced this motion out of order, inasmuch as a motion to recommit, had this day been decided in the negative and the rule of the House precluded a second motion for recommitment on the same day.

Mr. Forsyth then renewed the motion he had before made in committee of the whole, viz: to add to the bill, the following proviso:

"*Provided*, That no final judgement shall be pronounced by the supreme court of the United States, affecting the property, or life, or liberty of any citizen of the United States, which shall not be approved by such a numder of the judges thereof as shall constitute a majority of all the justices of the supreme court, including the Chief Justice."

On this question he demanded the yeas and nays; the call was sustained, (more than one-fifth rising in its favor)—Yeas 35; Nays 135.

Mr. Kremer now moved an adjournment. It was negatived—Ayes 77; Noes 99.

Mr. McLane of Del., gave notice that from considerations connected with his knowledge of the wants of the public service, he should feel himself bound to-morrow to call for the consideration of the Annual Appropriation Bills.]

The question being on agreeing to Mr. Forsyth's proviso.

Mr. Sloane of Ohio, demanded the *previous question*, (the effect of which would have been to exclude all amendment)—

The House refused to sustain the demand, by the requisite number of a majority of those present. When an adjournment was again moved by Mr. Kremer, and carried—Ayes 91, Noes 89.

So the House adjourned a little before 5 o'clock.

WEDNESDAY, Jan. 25.

Mr. Hamilton from the Committee on Military Affairs, reported a bill "concerning the Military Academy at West point;" which was twice read, and committed.

CONGRESS OF PANAMA.

Mr. Miner, of Pennsylvania, said, he had two resolutions which he wished to offer to the consideration of the House, on which he hoped there would be as great unanimity here, as he presumed to believe existed without these walls. After making a few remarks, Mr. M. submittted the following resolutions:

"Resolved, That the People of the United States have viewed with deep and anxious solicitude the exertions of the People of the several States in the Southern part of this continent, to secure the inestimable privileges of independence and self government; that they have seen the proofs exhibited of their fortitude, patriotism, and valor, with admiration, and beheld the success, with which a gracious Providence hath crowned their arms with gratitude and delight.

Resolved, That, as it accords alike with the generous and spontaneous wishes of this people, and the soundest maxims of policy, that the most perfect harmony of feeling and intercourse should be cherished among all the American nations, the principles of whose governments are founded in an acknowledgment of the equal rights of man, the appointment of Ministers to the proposed Congress of Panama, is a measure dictated by wisdom and propriety; and provision ought to be made, by law, to defray any expenses that may result therefrom."

The resolutions were then ordered to lie on the table.

Mr. Carter called up a resolution sometime since offered by him, calling on the Secretary of the Navy for information of experiments on cotton sail cloth, &c.

The resolution was read and adopted.

Mr. Trimble, of Ky. offered the following.

Resolved, That the committee of Foreign Affairs be instructed to inquire whether any, and, if any, what provision ought to be made by law to authorise the arrest and surrender of deserters from foreign vessels in the ports and waters of the United States.

The resolution was agreed to.

DISCRIMINATING DUTIES, &c.

Mr. Cambreling, of N. Y. offered the following:

Resolved, That the committee on Commerce be instructed to inquire into the expediency of amending the act of 1st March, 1823, so as to authorise the President of the United States to remove the discriminating duties now imposed on British vessels and their cargoes, upon their entry from any British American possession, whenever he shall have been officially informed that American vessels and their cargoes are in like manner admitted into the British American colonial free ports."

The resolution was agreed to.

The Speaker laid before the House a message from the President of the United States, received yesterday, transmitting a report from the Secretary of the Navy, with the documents and proceedings of the Courts Martial in the cases of Captain Charles Stewart, and of Lieutenants Joshua R. Sands and Wm. Hunter, which was ordered to lie on the table.

The Speaker also laid before the House a report from the Department of War, containing the information called for by the House on the 21st inst. in relation to the granting of Pensions to persons engaged in the land and naval service of the United States, in the Revolutionary war, which was ordered to lie on the table.

The bill from the Senate, "to revive and continue in force an act, entitled, 'an act fixing the compensation of the Secretary of the Senate, and Clerk of the House of Representatives, of the Clerks employed in their offices, and of the Librarian.'" was read a third time, PASSED, and returned to the Senate.

JUDICIARY BILL.

The House then proceeded to the unfinished business of yesterday, which was, the consideration of the bill "further to extend the judicial system of the United States"

The question being on the *proviso*, offered by Mr. Forsyth, of Geo. as an amendment to the bill, Mr. Forsyth modified his amendment so as to read as follows:

"*Provided*, That no final judgment shall be pronounced by the supreme court, which shall not be approved by such a number of the justices as shall constitute a majority of all the justices of the said court."

Mr. Forsyth addressed the House at considerable length, in favor of the amendment.

Mr. Trimble, of Ky. though in favor of the principle of this amendment, thought the present an improper time to introduce it, and spoke in opposition to its being added to the present bill.

Mr. Powell, of V. also opposed the amendment, though on different grounds.

Mr. Moore, of Ky., then offered the following as an amendment of the proviso of Mr. Forsyth:

"*Provided*, That no final judgment shall be pronounced, in any case pending before the supreme court of the U. States, whereby a state law is pronounced to be invalid and unconstitutional, unless a majority of all the Justices of said court including the Chief Justice, shall concur in said judgment."

Mr. Webster spoke in opposition to the amendment of Mr. Moore; which, at the suggestion of Mr. Wickliffe, of Ky., was modified to read as follows:

"Strike out all the amendment, after the word 'provided,' and insert—'That, in all cases brought before the Supreme Court, in which shall be drawn in question the validity, of any act of Congress or Treaty of the United States, of any part of the constitution of a State, or of an act passed by the legislature of a State, that six justices of the Supreme court shall concur in pronouncing such act of Congress, treaty of the United States, part of a constitution, or act of the Legislature of any State, to be invalid; and that, without the concurrence of that number of justices, no act of Congress, Treaty of the United States, part of a Constitution, or any act of the Legislature of a State, (as the case may be,) so drawn in question, shall be deemed or holden invalid."

Mr. Lotcher, of Ken. agreeing in opinion with Mr. Trimble, that this was an improper time to press that measure, moved that the previous question be now taken (which, being decided in the affirmative, precludes all debate and amendment.)

The motion was not sustained; there being Ayes 74, Noes, 91—a majority against it.

Mr. Mitchell, of Tennessee, hoped that it would be withdrawn, as he and others could not support it as an amendment to the present bill, though they were in its favor as an independent proposition.

The question was then put, and the amendment of Mr. Moore was negatived by a large majority.

The question now being on the proviso of Mr. Forsyth, as originally moved, Mr. F. demanded the Yeas and Nays, but the House refused to take them—Ayes 31, Noes 139.—(less than *one fifth*, which is required by a rule of the House, voting in favor of them.)

Mr. Forsyth then withdrew his motion to amend the bill by adding the proviso.

Mr. Webster moved that the bill be ordered to a third reading—when

Mr Bartlett, of N. H., renewed the motion which he had yesterday made and withdrawn, to re-commit the bill to the Judiciary committee, with the following instructions:

"So as to provide that the several district courts of the United States shall be required to perform such part of the duties which are now devolved upon the circuit court, as shall render but one term of the circuit courts necessary in each district annually, and that a justice of the supreme court of the United States shall be required to hold one term of the circuit court in each district in each year."

On this motion, he asked the Yeas and Nays, which were ordered—Ayes 33, Noes 130.

Before the Yeas and Nays were taken—

Mr. Mercer moved that the further consideration of the bill be *postponed to the second Monday in December next*, and supported his motion by a general speech in opposition to the bill, which he concluded by asking for the Yeas and Nays on this motion. They were ordered by the House.

Mr. Morvin, of New York, now spoke at considerable length in support of the postponement and against the bill.

He was followed by Mr. Webster, who spoke at large in answer to various objections which had been urged against the bill, and the substitutes which had been proposed.

Mr. Burgess said a few words in reply to some observations of Mr. Webster, and in general opposition to the bill; as did also Mr. Mercer.

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