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ADVERTISEMENTS,

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Eleventh Congress.

SENATE, June 9.

Mr. Smith, of Maryland, from the committee to whom was referred the bill to amend and continue in force the act entitled, "An act to interdict the commercial intercourse between the United States and Great Britain and France and their dependencies," together with the amendment proposed thereto, reported as a substitute a new bill.

June 10.

The resolution yesterday offered by Mr. Giles to adjourn on the 20th inst. was passed unanimously and sent to the house for concurrence.

June 12.

On motion by Mr. Giles, resolved that a committee be appointed to enquire whether it be expedient and proper at this time, to make any provision by law for remitting the penalties and forfeitures incurred by the violations of some of the provisions of the act, entitled, "An act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States from and after the 1st of Jan. 1808," so far only as relates to the introduction of slaves into certain parts of the U. States, who were lately forcibly expelled from the island of Cuba, with the French inhabitants thereof.

Messrs. Giles, Bradley, Anderson, Crawford and Franklin were appointed the committee.

After considering the bill to amend and continue in force the act to interdict the commercial intercourse between the United States and Great Britain and France, &c. it was on motion of Mr. Giles postponed till to-morrow.

The same course was then pursued with the bill to direct the sale of gunboats.

June 13.

The President communicated two reports from B. H. Latrobe, surveyor of the public buildings. Referred to Messrs. Brent, Gregg and Leib.

The Senate resumed the consideration of the bill to amend and continue in force the act entitled, "An act to interdict the commercial intercourse between the United States and Great Britain and France and their dependencies.

On motion of Mr. Anderson the bill was postponed until to-morrow.

On motion of Mr. Lloyd, resolved that the President of the United States be requested to cause to be laid before the Senate such information, in relation to our concerns with Great Britain, as may be in possession of the department of state, and as he may think it expedient to submit to the Senate.

The Senate resumed the consideration of the bill to direct the sale of gunboats.

Mr. Bradley moved to postpone its further consideration until the first Monday in January next.

This motion was negatived.

When, on motion of Mr. Anderson, the further consideration of the bill was postponed until to-morrow.

HOUSE *of* REPRESENTATIVES.

Friday, June 9. 1809.

OLMSTEAD'S CASE.

The following message received from the President of the United States by Mr. Graham, was read:

To the House of Representatives of the United States.

In consequence of the request of the Legislature of Pennsylvania, I transmit to Congress a copy of certain of its proceedings communicated for the purpose by the governor of that state.

JAMES MADISON.

June 4, 1809.

[The inclosed document was the detailed report of the Legislature, with the instructions of the Legislature to the Senators and Representatives.]

And on a motion made to print the message and document

Mr. Lyon objected to the motion.

Mr. J. Porter advocated it on the ground of its being the usual course pursued by the house in all communications from the constituted authorities of a state.

Mr. Milnor opposed the printing, principally because no act was now to grow out of it. The paper had been drafted to meet a case then pending, and difficulties which then had existed.—Since the adoption of these resolves, these difficulties had been done away by an act of the Legislature of Pennsylvania. It appeared to Mr. M. also, that no proceedings would be necessary in consequence of those papers, if only necessary to prevent the recurrence of similar cases in future. Every one who had attended to the reading of these papers must have seen that they related to a case of difficulty which had arisen when this government was merely a confederation of states, when its powers were confined within such narrow limits that Congress could not enforce its decrees, when its acts were nothing more than recommendations to the state legislatures. At that period this question had arisen from a dispute between the United States and the state of Pennsylvania how far each had jurisdiction in the courts of admiralty and courts of appeal. No such case could in future arise, because the constitution had been framed by the people of the states which vested in the Congress of the United States the entire power of appointing courts of admiralty jurisdiction. No state could now take cognizance of admiralty cases; in future there could be no clashing of jurisdiction on this subject. Whether the courts of the United States or those of Pennsylvania were correct in the principles which they had set up in the case under consideration, appeared to him to be a question which it was not necessary to examine at this moment. The case had been completely settled by the payment of the money to Gideon Olmstead. He had hoped that the dispute had been by that means wholly put to rest; and from a belief that it ought to be so, he did not wish this document to be printed, but merely to lie on the table. The resolution of the legislature of Pennsylvania which recommended to the Representatives and instructed the Senators from that state to endeavor to effect such an alteration in the Constitution as should establish an independent tribunal for the trial of such causes, had been produced by the idea that the case of Olmstead was a dispute between the *United States* and the state of Pennsylvania. It had never appeared otherwise to him than as a dispute between the *judiciary* of the United States and the constituted authority of the state of Pennsylvania. On the part of the judiciary of the United States, it was an attempt to carry what it believed to be its legal powers into effect. Resistance was made by the constituted authority of Pennsylvania under the idea that this conduct of the judiciary of the United States was in consequence of a power assumed by them, a power not delegated by the constitution or the institution of their office. If the judges of the courts of the United States had misconceived their authority, if in their decision they had acted contrary to the constitution or the laws, then are they liable to impeachment for the conduct which they have pursued; but it could not be said that it was a contest between the governments. The government of the United States never interfered. The process issued from the courts of the United States. The marshal executed it; and in compliance with the process the money had been paid. The case appeared to be completely at rest; and the resolutions of the legislature appeared to be bottomed on a false foundation, so far as they contemplated a difference with the United States and Pennsylvania. The judiciary of the United States must in this case have been as impartial as any tribunal could be.—There was not, in this case, one cent claimed by the United States, or any officer of the United States; the judges were not interested by any affinity with the parties claiming it; and, if not in this case free from prejudice, it was impossible that they ever should be so. Believing, if the judges of the courts of the United States had erred, it was an error in judgment and not from correct motives, he could never consent that, in a case of this kind, the Congress of the United States should proceed to any further act. He hoped therefore that the papers would not be printed, but would be ordered to lie on the table.

No other gentleman rising to speak, the motion for printing was negatived, 63 to 50; and the message and documents ordered to lie on the table.

BARRED CLAIMS.

Mr. *Johnson* from the committee of claims made several reports on petitions; amongst which were two or three on petitions of old soldiers, &c. On these the committee reported, without entering into the merits of the several cases, that they were barred by the statute of limitation and *therefore* recommend that the prayer of the petitioners ought not to be granted. A report similar to this having been made on the petition of Hannah Forest of Philadelphia, widow of a revolutionary officer, it was negatived by the House.

A motion was made to re-consider this report, on the suggestion of Mr. Stanley that the question had not been understood by the House.

Mr. *Goldsborough* opposed the motion. He hoped the House would not sanction by its vote the broad principle that every claim, however just, should be barred by the statute of limitation; but that they would decide that it should be no bar to the payment *by Congress* of all just claims.

Mr. Johnson (the chairman of the committee of claims) expressed his satisfaction that this question had been brought up for the consideration of the House, that by its decision the committee of claims might be guided in its future conduct.—The committee were every day presented with cases of hardship which created painful sensations in the breasts of the committee, but which they were compelled, from the uniform conduct of the committee of claims heretofore, to reject because they were barred by the statute of limitation. Thus in the present case the committee had reported, not that the claim was not just, but that they had not examined it because barred by the statute. He should feel happy at a decision which should open the statute to particular claimants, and should not, as a member of the committee ever shrink from the investigation of them. He found himself bound to vote for a re-consideration of the vote on this report, because if the statute was to be opened to particular cases, it should be done by some general rule, and not by a decision on a single case.

Messrs. Holland and Nelson said they were that claims of the Congress were barred by the statute of limitations; they believed it was only intended to bar a settlement *at the Treasury* of document claims, of claims against which the length of time that they had been suffered to sleep was strong presumptive proof. If this principle set up by the committee of claims was to be adhered to, to what purpose was any claim referred to a committee? The reason why these petitions were presented to the House, was that the claims were barred by the statute; for, if not barred, they would long ago have been settled at the Treasury Department. These reports of the committee of claims had long been considered as reflecting dishonor on the House; and it was believed that the committee of claims ought to examine into the equity of cases presented to them, without reference to the statute of limitations. If that was to bar all claimants, there was a much more ready way of obtaining their answer than by a report of a committee of the House; on application to the Treasury, their claims would be rejected without delay.

The House refused to re-consider the report, 50 to 42; and

On motion of Mr. Eppes, the report was re-committed to the committee of claims, with instructions to report *on the merits* of the case, 68 to 38.

This decision is understood to operate as an instruction to the committee of claims in future to report on the merits of all cases, without considering the statute of limitations as a bar to their liquidation by Congress.

Mr. Love reported a bill respecting the courts of the District of Columbia—Twice read and committed.

Mr. Rhea reported a bill to alter and establish certain Post-Roads. Twice read and committed.

MILITARY ESTABLISHMENT.

Mr. Nelson, from the committee to whom was referred so much of the message of the President of the United States as relates to the military establishment, and Mr. Randolph's resolution for disbanding the troops lately raised, *reported* "that under existing circumstances it would be impolitic and unwise to disband any part of the military establishment of the United States." Report referred to a commitee of the whole.

FORTIFICATIONS.

The bill from the Senate for appropriating money for completing fortifications commenced, and erecting new works on the Northern and Western frontiers, was read a third time; and on the question "shall the bill pass?"—The votes stood as follows:

YEAS—Messrs. W. Alston, Anderson, Bacon, Baylies, Blaisdell, Breckenridge, J. C. Chamberlain, W. Chamberlin, Champion, Chittenden, Cobb, Cox, Cutts, Dana, Dawson, Emott, Findley, Fisk, Gardenier, Goldsborough, Gold, Hale, Haven, Heister, Helms, Hubbard, Husty, J. G Jackson, R. Jackson, Jenkins, Jones, Knickerbacker, Lewis, Livermore, Livingston, Marion, Matthews, M'Bride, M'Kim, Miller, Milnor, N. R. Moore, Moseley, Mumford, Nelson, Newton, Nicholson, Pearson, Pickman, Pitkin, P. B. Porter, Potter, Quincy, Rhea, of Ten. Root, Ross, Sage, Sammons, Say, Sheffey, G. Smith, Stanley, Stedman, Stephenson, Sturges, Taggart, Talimadge, Taylor, Thompson, Tracy, Upham, Van Horn, Van Rensselier, Weakley, Wheaton, Whitman, Wilson.—77.

NAYS—Messrs. L. J. Alston, Bard, Barnett, Bibb, Boyd, Brown, Burwell, Butler, Calhoun, Clay, Cochran, Crawford, Crist, Desha, Eppes, Franklin, Gannett, Gholdson, Goodwyn, Holland, Johnson, Kennedy, Love, Lyle, Macon, M Kee, Montgomery, T. Moore, Morrow, Randolph, Rea, of Penn. Richards, Roane, Seaver, Shaw, J. Smith, S. Smith, Southard, Stanford, Swoope, Whitehill, Winn, Witherspoon.—43.

For the Bill, 77—against it, 43—absent *twenty-one* members, of whom *two*, Messrs Vandyke and Denning had not taken their seats this session; and *nineteen*, Messrs. John Brown, Campbell, Clopton, Cook, Davenport, Ely, Gardner, Gray, Howard, Kenan, Key, Lyon, Newbold, Nicholas, John Porter, Sawyer, Smelt, Smilie and Troup, were absent from indisposition or other causes.

The bill therefore only requires the signature of the President to become a law.

Nicholas Vandyke, a member from Delaware, appeared and took his seat.

Monday, June 12.

Many petitions were presented and referred; among which were several presented by Messrs. Quincy and Gardner, from manufacturers of salt, praying for a duty on imported salt.

Mr. Gardenier obtained leave of absence for the remainder of the session.

Mr. Montgomery reported a bill making compensation to major Z. M. Pike and his companions for certain exploring expeditions. On the question whether the bill should have a second reading, it was negatived, 57 to 42.

A report was received from the attorney general on the subject of sundry memorials relative to the batture at N. Orleans, referred to him at the last session. Referred to a select committee, with leave to report thereon by bill.

MISSISSIPPI TERRITORY.

The Speaker presented a petition enclosed to him from a number of inhabitants of the district east of Pearl river, in the Mississippi territory, praying for a division of the territory.

Mr. Poindexter moved that the petition lie on the table; it would perhaps be disrespectful to the petitioners to reject it, although its contents would merit that course. There were three parties who must by the ordinance for the government of the territory, consent before the territory of the Mississippi could be divided. One party was the Mississippi territory, the other the state of Georgia, and the third the United States. Neither of these parties have consented. There was also an absolute interdiction to all legislation on the subject; and the house would with as much propriety refer a petition from a state to be exempt from general taxation, or to recede from the union, as to refer this petition.

Mr. Burwell said he felt himself bound to oppose the motion for its lying on the table. If the request was wholly improper, the report of a committee to that effect would settle the question at once.

Mr. Bibb was in favor of the motion; though, had a motion been made to reject it, he should have voted against it.

Mr. Macon was in favor of a reference of the petition. No harm could arise from an enquiry into it.

Mr. Troup admitted the correctness of the remarks of the delegate from the territory, but wished the petition to be referred to a committee for the purpose of an enquiry as well into the amount of population in that country as into its quality; whether it was lawful or unlawful There were certain facts connected with this subject perhaps not generally known to the House. In the course of last year he had understood that a great many persons, amounting to perhaps three or four thousand, had crossed the Tennessee river, and fixed themselves on its banks, not only contrary to law, but the impression was that they had set out in defiance of the law, and had even gone so far as to organize themselves into military associations for the purpose.

Mr. Poindexter observed that there had been a settlement contrary to the existing law on Tennessee near about a year ago; but that they were ordered to be driven off by the military force, except they would take permission to reside as tenants at will. Some had done so, and some had been driven off.

Mr. Troup said he knew that orders had been given to remove them; but of their removal and dispersion he had not heard. He said he had farther understood that there were in the county of Madison alone two or three thousand intruders, and many of them settled on Indian lands, whose owners they excited to hostilities. There was another fact, of which the House might keep possession. Among these intruders was one of the name of Harrison (he believed) who claimed under what was called the Tennessee Yazoo claims, and who settled on the land with his retainers, and deliberately began to apportion it amongst them. Whether he had been dispossessed, Mr. T. said he did not know. It was absolutely necessary to ascertain the situation of the country, and therefore he should vote for the reference of the petition to a committee.

The petition was ordered to lie on the table—67 to 27.

ADJOURNMENT.

On motion of Mr. Bibb, the House took up the resolution from the Senate to adjourn on the 20th instant.

Mr. J. G Jackson moved that it lie on the table till Thursday. He thought it unbecoming the dignity of this body to fix a day at which to adjourn, when it was impossible to say whether the business before the House could be maturely considered in that time. It was hurrying business at the hazard of its being insufficiently attended to.

Messrs. Alston and Cook were of the same opinion.

Mr. Bibb said he was not very anxious about it, but he did not before know that the dignity of a body was proportioned to the length of its sittings. He was of a very different opinion, believing that as much business might be as well done in a week as was often done in a month.

Mr Dana was in favor of the resolution's lying on the table. He said he had supposed that *quality* was quite as material as *quantity* in legislation. It was an extraordinary thing that a legislature should serve its members as sometimes men served their horses or oxes, giving them a certain portion of work to do in a given time; and then lashing them up to it. He had his idea of legislating upon compulsion.

The resolution was ordered to lie on the table till Thursday next.—ayes 87.

A bill from the Senate for extending the benefit of drawback to goods transported by land from the district of Newport to the port of Boston, was twice read and committed

NAVAL ESTABLISHMENT.

Mr. Cutts, from the committee on our naval establishment, reported a bill concerning the naval establishment.—[This bill authorises the President of the United States, in case of a favorable turn in our foreign relations, to cause to be laid up in ordinary such of the public armed vessels of the United States as he may think proper.]—Twice read and committed.

Mr. Cutts, from the same committee, on the resolution directing the committee to enquire into the expediency of selling any part of the public armed vessels, reported, that it is not expedient at this time to sell any of the public armed vessels.—Report ordered to lie on the table.

CONTESTED ELECTION.

On motion of Mr. Findley, the house resolved itself into a committee of the whole, Mr. Pitkin in the chair, on the report of the committee of elections on the petition of Charles Turner, jr. contesting the right of William Baylies to his seat.

On this report, the acceptance of which by the House would postpone the decision of the case till the next session, a debate arose, which continued till 5 o'clock; in which Messrs. W. Alston, Bacon, Baylies, Clay, Dana, Findley, Fisk, Gannett, Gholson, Gold, Holland, Livermore, Macon, Montgomery, Pickman, Quincy, Randolph, Rhea, Taylor, Varnum, Wheaton and Wilson, took part.

It was contended by those in favor of postponement, that the depositions taken on the subject of this election, although the parties might have had reasonable notice, were not legal, having been taken under the authority of no existing law:

(*Continued in last page of the paper.*)