

When men are called upon, in their public capacity, to decide on the case of a high officer of government, & when they know that the cause, which is to govern their opinion is to be transmitted with their names to posterity, passion will abate and reason assume her empire. They will consult their judgment, not their feelings. The Gentleman from Craven had alluded to the opinion of the Chief Justice of the U. States in the case of Aaron Burr, and asked what would have been the consequence at that time, if the constitution of the U. States had contained a provision similar to the one now proposed? It is true there was a strong excitement in public opinion at that time against the accused. The people believed, from what they had heard of the subject, that he was guilty of a crime, which, when committed, never fails to rouse the feelings of a patriotic country. They were satisfied he had committed, I would say, *moral treason*, if it had not given so much offence elsewhere, and upon another occasion. It became, however, the duty of the Court to decide his case, according to law and legal evidence. It was so decided, and when all the facts were known to the public, it gave general satisfaction to those best able to judge; and had an address to the President been proposed, if Congress had then possessed the power, which is now proposed to be given to the Legislature, I will, said he, venture the opinion, that a sufficient majority could not have been found to sanction the measure. For, sir, however subject the public mind is to popular feeling, when men are solemnly called upon to act legislatively or judicially, feeling, in an honest man, will naturally subside & give place to sober judgment.

Thus much, sir, on principle: let us now refer to example. Is this provision as regards the Judiciary an innovation? It is not: many of the states, whose judges are distinguished for their many independence in office, and patriotism and ability as men, have the same provision. And has there been any abuse of this power, in any of the states, where it exists? If there has been an abuse of it, it had not come to his knowledge. It was a salutary provision, it provided for cases not necessary to be mentioned, which could not be reached by impeachment.

The Gentleman from Hartford objects to examples drawn from Connecticut, because during a late memorable period, that State had a *Hartford Convention*. The Gentleman should recollect, that this Convention was under the old order of things, & the auspices of those friendly to that state of things. The same objection cannot exist to the late Convention for the amendment of their Constitution, which had produced one, considering the condition of the people for whose government it was intended, not exceeded in excellence by any in the Union. And how, sir, said he, was that effected? In the way now proposed to effect the object in this State. The people of Connecticut had lived under their old imperfect charter for a long time, and suffered all its inconveniences. There was a party there, as there is here, opposed to a change, because it suited their purpose better in its imperfect state. But the people of that State rose in their strength, a new Constitution was formed, in every respect better than the one they before lived under. It was then predicted, as it is now, that public liberty and private property would be endangered in the hands of such men; but experience has shown that their government is greatly improved, and liberty and property better protected.

I cannot, said he, Mr. Chairman, conclude my remarks on this important subject, without a reference to the magnanimity and enlightened public spirit of our sister state of South Carolina: a state to which I never recur, but with sentiments of the warmest affection; one which I somewhat consider one of our bone and flesh of our flesh. But sir, said he, how has she surpassed us in her public spirit, institutions and improvements? I admire any wish to imitate her example. It is noble in principle, and useful in practice. The settlements in that State, as in ours, first commenced on the seaboard and progressed by degrees to the upper country. Represented by districts, and with an overwhelming majority of members from the east, they had it completely in their power to refuse an amendment to the constitution by the Legislature, for before an amendment could be made in this way, it required a concurrence of "two thirds of both branches of the whole representation." But from a sense of justice, and in the spirit of doing to others, as they would others should do to them, in 1808, they adopted an amendment equalizing the representation, and establishing it upon the basis of free white population and taxation. Is there nothing in this example worthy of imitation? Instead of sustaining an injury, the state has been greatly benefited by the change. It has broken up local parties, & instead of legislating on insignificant private bills and local partialities, it is now attending to the great interests of the State. It has not only endowed its higher Seminaries of Learning, but has established public Schools in every section of the State and at one session appropriated half a million for internal improvement. By such a course of policy, it has raised up from its own population of the first order of talents, and attained a standing in the Union highly honorable to the State.

And may not this State, said Mr. Y., attain a like character by adopting a similar course? I have no doubt of it. When I consider, said he, the situation of the State, its extent, the character of its population, and its resources, I am equally astonished and gratified at the station it has heretofore occupied in this Union. On these shores we have a productive country of many articles, in the middle of it we have a soil & a climate capable of the best agricultural improvement and production, and in the west we

have a vast extent of fine lands, which only require good cultivation to make them very desirable. We have rivers, extending themselves in every direction from the mountains to the ocean, nearly all of which are susceptible of navigation, and some of them, surpassed only by the great Mississippi. Yet we have lived under our present constitution upwards of 40 years, without attempting, till lately, any considerable improvement of our natural advantages. While other states adjoining us, have done much to promote internal improvement and liberal education, we have done but little. It is true, that individual enterprise and patronage, has reared up in almost every county, useful academies, and to these are you indebted for those useful, enterprising young men, who are just coming into public life. We have but one University, which has ever received any portion of the public patronage, and we all know that has been scanty enough. We have not, as yet, appropriated a cent towards public improvement; we have, indeed, subscribed for a few shares in the companies, which individuals have formed for the improvement of the navigation of our rivers. Sir, said he, let us, at the present Session, make a great effort to remove this state of things, and as the foundation of this noble work, let us suffer this question to go to the people, and let them decide, whether it is expedient to amend the constitution. I can see no reason why they should not be consulted, and doing so, we are but following examples which have been productive of much good elsewhere. Equalizing the representation of the State, will but to rest, forever, the present local parties, and the councils of the State will hereafter be governed upon principles of public policy: avarice will yield to an enlightened and liberal spirit. I beseech gentlemen, therefore, said he, as they have a due respect for the rights of their western brethren, that they will manifest it by their conduct upon this occasion.

The gentleman from Craven, thinks a time of tranquility is the worst of all times for correcting errors in our political institutions. I am, sir, said he, of a very different opinion. Times of tranquility and good feeling, are the periods when understanding will be consulted, rather than feeling; and when the people of this country have a great work to perform, they will call to their service, the virtue and talents of the State. Without intending any disparagement of the able and worthy men who formed the present Constitution, those who may be called to revise that work, will show themselves as worthy to be trusted, and perform a service, equally as valuable to their country. Mr. Y. concluded, by hoping, that the amendment which he had the honor to propose, would be adopted, and that the resolutions as amended, would be reported to the Senate.

After some other remarks by way of reply and explanation, Mr. Yancy's amendment was agreed to, the Committee rose; and the Resolutions being read, as amended.

Mr. D. Jones moved an indefinite postponement of the further consideration of the subject, which was carried 36 to 23.

The Yeas and Nays were as follow: YEAS—Messrs. Alston, Albritton, Baker, Benton, Boon, Davis, of Carteret, Davis, of Tyrrel, Darlet, Eborn, Frink, Fraser, Foscue, Fennell, Gaston, Glisson, Hines, Hawkins, Hudgins, Holmes, Haywood, Hinton, R. R. Johnson, C. E. Johnston, Jones, Lind say, Loftin, Martin, McKinnie, Owen, C. Perkins, Phelps, Siddick, Speight, Sterling, Terrell, Ward—35.

NAYS—Messrs. Atkinson, Belheli, Callaway, Conner, Cameron, Dick, Davidson, Dobson, Foster, Farrar, Hovle, Locke, Marshall, McLeary, A. Perkins, Pharr, Raiborn, Sherber, Steele, Tyson, Wade, Walton, Wellborn—23.

### TENNESSEE LAND LAW.

The Act just passed by the Legislature of Tennessee giving to occupants of land a preference to those who possess the right to it, has excited so much interest in this State, that we take an early opportunity of laying an abstract of it before our readers.

The Act is entitled "An act making provision for the adjudication of North-Carolina land claims, and for satisfying the same, by an appropriation of the vacant soil south and west of the Congressional reservation-line, and for other purposes."

Sec. 1. Provides for laying off the congressional reservation into seven districts, appointing a principal surveyor to each, who is to have as many deputies as he finds necessary.

Sec. 2. Describes the boundaries of the districts, beginning with the 7th district, and ending with the 15th, & fixing the office of the 7th at Pulaski, Giles county; and the 8th at Columbia, in the county of Maury.

Sec. 3. 4th, 5th and 6th sections prescribe the duties and give instructions for the government of the Surveyors in laying off and marking the districts and sections of districts five miles square, and providing that the map of the district shall be platted by a scale of 160 poles to the inch, and the different quality of the land to be distinctly marked.

Sec. 7. Requires each Surveyor to publish, without delay, in the Nashville and Knoxville papers, the boundaries of his district, notifying all persons desirous of making entries in the same, the day on which the office will be opened, and at the same time requiring all persons claiming lands in said district by virtue of grants from North-Carolina, to cause the same to be processed before the 1st day of October next, and of application of such grantees, or their

agents, the Surveyor to run and remark said land.

Sec. 8. If any person shall fail to identify his grant, the Surveyor shall cause all such grants to be run and marked, and to use all reasonable exertions to identify such grants, to procure the field notes of the original surveyors, &c. and when thus laid down, no subsequent enterer is to cross the lines.

Sec. 9. Occupants of land on the 1st of September, 1819. (on oath being made that such land is ungranted and unappropriated) may make entry of 160 acres in a square or oblong including his improvements. In case of disputes about priority of entry, the Surveyor is to settle it by lot in the presence of the parties.

Sec. 10, 11, 12 and 13. All contain provisions for carrying into effect the object of the 9th section.

Sec. 14. Directs the Surveyor to enter in a book a list of all the warrants, or such other legal evidence of claims as shall be certified to be valid by the Board of Commissioners directed to be appointed by this act, which shall contain a blank column to be filled with the number of the location which shall have been drawn by lot.

Sec. 15. Directs that the Surveyor's Office in the 9th district shall be kept at Reynoldsburg, the 10th and 11th at Chickasaw Bluffs; the 12th and 13th at Dover.

Sec. 16. Fixes the time of drawing for the number of locations on the first Wednesday in Dec. 1820.

Sec. 17. Prescribes the Surveyors duties in relation to the above drawing.

Sec. 18. Provides that North-Carolina claimants to whom no grants have issued, provided such unsatisfied claims shall be deemed good by the Board of Commissioners, shall be entitled to receive grants from this State for such quantity of land as is called for in all such entries.

Sec. 19. Makes provision in cases of duplicate warrants and certificates issued by the Boards of East or West Tennessee.

Sec. 20. Directs that grants may be issued on subdivisions of warrants; but prohibits any subdivision in future.

Sec. 21. Directs that grants on valid warrants or certificates issued by Tennessee to lands within the then Indian territory, shall hold the same, except on the lands reserved to the Cherokee Indians south of Tennessee river, and in such cases to have duplicate grants.

Sec. 22. Provides for deficiencies, where part is covered by a better title.

Sec. 23. Refers to the case of lands reserved for the use of schools, and gives the same remedy as in cases where there are interfering grants of better title.

Sec. 24 and 25. Forbid the surveyor from receiving locations, or making surveys, except the warrants or certificates are adjudged and certified, as is by this act directed; and all surveys on N. Carolina entries to be made agreeably to the laws in force at the time of the cession act.

Sec. 26 to 30. These sections relate to the specific duties of the Surveyors.

Sec. 31. Provides for the election by the Legislature of three persons to act as a Board of Commissioners under this act, who are to meet at Nashville on the 3d Monday of January next. To appoint a Clerk, &c.

Sec. 32. Prescribes the duties of the Clerk.

Sec. 33. Provides that one of the Commissioners shall be appointed President.

Sec. 34 to 40. Relate to the duties of the Commissioners and their Clerk. The 41st section, being the most important to the citizens of this State, is given at length.

Sec. 41. *Be it enacted*, that every person claiming lands in this State, by virtue of entries of lands, rights of location, and warrants of survey, and all interfering locations which might be removed by the act of cession of the State of North-Carolina, & which are good and valid in law, and which were actually located within the limits of the tract reserved by the Congress of the United States, and all interfering grants which are good and valid in law, and all certificates for interfering grants, and duplicates of warrants, issued from the offices of the commissioner or commissioners of East or West Tennessee agreeably to law, shall, on or before the first day of October, in the year 1820, file the evidences of such claims with the clerk of the board of commissioners by this act appointed for the adjudication of the same, and on failure thereof, such claimant or claimants shall be forever thereafter barred.

The 42d to the 51st sections of this act relate to the nature of the evidence to be brought before the commissioners, their salaries, the surveyors fees, &c.

Sec. 52. Provides that the Surveyors north and east of the congressional

reservation line whose districts include any part of the lands lately obtained by treaty with the Cherokee Indians, shall proceed to open offices for receiving a list of warrants, and making entries, &c.

The following is the last clause of the act, except the usual repealing clause of all other acts coming in purview with this:

WHEREAS it appears that there is deposited in the Secretary's office of North-Carolina a file of military warrants, &c. accompanied with plats and certificates of survey, marked No. 29; and whereas it is suggested there are others of like nature not filed in said file No. 29, on which plats and certificates it is believed no grants have issued, therefore

*Be it enacted*, That it shall be lawful for each person for whom any of said surveys was made, on producing a transcript of the copy taken from said file by the agent aforesaid or other legal testimony as to those not filed, in said file No. 29 or other copies of said warrants and plats and certificates of survey, to obtain a grant from this state for the same land called for in said surveys; but should it appear said lands or any part thereof, hath been taken by any prior claim, in such case it shall be lawful for such person to remove his said warrant and have the same located on, and obtain a grant therefor on any vacant and unappropriated land within this state; provided however, that no grant shall have been previously issued on said warrants or any duplicate thereof, and that said warrants be good and valid, the validity of which shall be ascertained by the commissioners as in other cases, and provided always, that the claimant or claimants shall satisfy said commissioners that they are the real owner or owners of said warrant or warrants.

### CONGRESS.

#### HOUSE OF REPRESENTATIVES.

MONDAY, JAN. 10.

Numerous petitions were this morning presented, and referred to the consideration of various committees.

Mr. Kent, from the select committee to whom the consideration of the petition on the subject had been referred, reported a bill to incorporate the Managers of the National Vaccine Institution; which was read and committed.

Mr. Cannon, of Tenn. offered for consideration the following resolution:

Resolved, That the committee on Revolutionary Pensions be instructed to enquire into the expediency of amending the law on the subject, so as to place soldiers and officers on an equality, by allowing to each an equal portion of the bounty of the government.

Negative 74 to 70.

On motion of Mr. Hendricks, it was Resolved, That the Secretary of the Treasury be instructed to lay before this house an annual statement of the number of acres of land sold at the several land offices from their institution to the 30th Sept. 1819; of the monies accruing and the monies received from such sales; of the sums due the government and unpaid, and of the sales or forfeitures for non-payment—keeping separate that part of the statement which relates to the states of Ohio, Indiana, and Illinois, formerly the North-Western territory.

The bill from the Senate for establishing a Circuit Court in and for the district of Maine, was twice read. Mr. Holmes wished it, as being wholly unobjectionable to be ordered at once to have a third reading. But Mr. Lowndes objected, that the bill was of too much importance to justify the house with dispensing, in regard to it, with the usual forms of proceeding. The bill was then, without opposition, referred to a committee of the whole.

A message was received from the President of the United States, in compliance with a resolution of the House of Representatives, of the 14th of December, 1819, requesting him "to cause to be laid before it any information he may possess respecting certain executions which have been inflicted on the army of the United States since the year 1815, contrary to the laws and regulations provided for the government of the same," with a report from the Secretary of War, containing a detailed account in relation to the object of the said resolution.

On motion of Mr. Cannon, Resolved, That the committee on military affairs be instructed to enquire into the expediency of reducing, or entirely stopping, the expenditures on military fortifications.

TUESDAY, JAN. 11.

Mr. Anderson, from the committee on Public Lands, who were instructed "to enquire into the expediency of granting to each State a tract of land, not exceeding one hundred thousand acres, for the endowment of an University in each State," reported a resolution, "That it is inexpedient to grant any tract of land to a State for the purpose of endowing an University;" which report was read and ordered to lie on the table.

Mr. Simkins submitted the following resolution:

Resolved, That the committee on the Judiciary be instructed to enquire into the expediency of amending the act of Congress concerning the faith and credit to be given to the records and judicial proceedings of the courts of any State, authenticated and produced in evidence in any other court within the United States, and the effect thereof.

Agreed to.

The House then went into committee of the whole, on the report of the committee of Elections on the memorial of Robert C. Mallory, containing the election of Orasmus C. Merrill, of Vermont. After some time, the committee rose, reported progress, and obtained leave to sit again.

WEDNESDAY, JAN. 12.

Mr. Smith of Md. from the committee of ways and means, in pursuance of and in conformity to the resolutions of Mr. Lowndes, referred to the committee on the 29th ult. reported a bill in addition to the several acts for the establishment and regulation of the Treasury, War and Navy departments. Mr. S. also, from the same committee, reported a bill extending the time allowed for the redemption of land sold for direct taxes; which bills were severally twice read & committed.

Mr. S. also reported the concurrence of the committee of ways and means in the amendments of the Senate to the bill making a partial appropriation for the military service for 1820; which amendments were committed to a committee of the whole.

Mr. Cannon, from the committee on the militia, to whom was referred an enquiry into the expediency of clothing the militia at the public expence, when called into the service of the United States, or of allowing them an equivalent in money, made a report on the subject, accompanied by a bill providing for that object; which was twice read and committed.

The Speaker laid before the House a letter from the Secretary of War, transmitting a copy of the rules and regulations of the Commissioner adopted in relation to the execution of the act of April 1816, to pay for property lost in the military service; rendered in obedience to a resolution of the 23d ult. the report was read and ordered to lie on the table.

The house resolved itself, on motion of Mr. Smith of Md. into a committee of the whole, on the bill (returned from the Senate with amendments, providing a certain sum for the national armories, and another sum for the settlement of outstanding claims) making a partial appropriation for the military service of the current year. After some conversation, the committee rose and reported their concurrence in the amendments; which report was agreed to by the House.

The house next proceeded on the report of the committee of elections on the contested election of Mr. Merrill of Vt. The discussion continued to a late hour, when the committee rose and reported their concurrence in the resolutions of the committee of elections.

The question was then taken on the resolution declaring that Mr. Merrill is not entitled to a seat in this house, and decided in the affirmative by a large majority.

Before taking the question on the other resolutions of the Report, which declares Mr. Mallory entitled to the seat, a motion was made to adjourn, and carried.

#### THURSDAY, JAN. 13.

Mr. Anderson, from the committee on public lands, reported a bill for the establishment of additional land offices in the state of Illinois; which was twice read & committed.

On motion of Mr. Whitman, it was Resolved, That a committee be appointed to enquire into the expediency of reviving and continuing in force, for a limited time, so much of an act, the provisions of which partially expired on the first day of November last, entitled "an act regulating the currency within the United States of the gold coins of Great-Britain, France, Portugal and Spain, and the crowns of France and five franc pieces," as relates to the gold coins of those countries.

The House then resumed the consideration of the remainder of the report of the committee of elections, on the contested election of Mr. Merrill, of Vt. The house having yesterday agreed to the first resolution, declaring Mr. Merrill not entitled to a seat—the question now under consideration was, on agreeing to the second resolution of the report, which declares that "Rollin C. Mallory is entitled to a seat in this House."

An earnest debate followed on this resolution, which continued till near 4 o'clock.

The question was finally decided in the affirmative, 114 to 47.

The Speaker laid before the house a letter from the Secretary of the Treasury, transmitting such information as the government possess in relation to the illicit introduction of slaves, in obedience to a resolution of the 31st ult.

FRIDAY, JAN. 7.

After several Resolutions had been offered and some of them agreed to, and others laid on the table.

The House went into a committee of the whole, on the report of the committee of Elections on the petition of James Guyon, jun. contesting the election of Ebenezer Sage, one of the members, returned as elected from the State of New-York, which report declares that Mr. Sage is not entitled to a seat, and that Mr. Guyon is.

[The question involved in this case was—whether votes which were given for James Guyon, junior, but returned by the officer without the addition of "junior" should be allowed to J. G. jun. no other person of that name being a candidate.—These votes had been withheld from Mr. G. which gave Mr. Sage a majority—by giving to J. Guyon, jun. all these votes it would make a majority in his favor. The committee decided to correct the error of the returning officer agreeably to the practice of the House of Representatives in similar cases heretofore. Mr. S. has not appeared to claim the seat.]

A good deal of discussion took place on the subject, relative to various circumstances attending the election, the conduct of the officer, &c. after which, the committee rose and reported their agreement to the report.

The house concurred in the report, which decided the petitioner entitled to a seat in the House—when Mr. Guyon's name forward, was qualified, and took seat. The House then adjourned to Monday.

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