(XLIVth YEAR.) THE (No. 2213.)

MARYLAND GAZETTE.

THURSDAY, JUNE 11, 1789.

Proceedings of Congress.

HOUSE OF REPRESENTATIVES OF THE UNITED STATES.

FRIDAY, MAY 22, 1789.

THE committee to whom was referred the petition of Dr. Ramsay, had reported to the house certain facts stated in that petition as admitted by Mr. Smith, also a list of counter-proofs, which Mr. Smith exhibited to them.—These proofs now came before the house for their examination and decision.

Mr. Lawrence moved to recommit the business to the committee, with instructions to examine and report the facts arising from these proofs, that the house might not be put to the trouble of ascertaining those facts from voluminous documents, the reading of which would require much time.

Mr. Livermore objected to the motion.—He wished to draw the attention of the house to the precise mode in which he thought this matter ought to be conducted. In his opinion the proper mode of proceeding was, first to hear the allegations of the petitioner or prosecutor, and to examine the evidence by which these allegations were supported; and in the second place to hear the evidence and defence of the respondent. When this was done a judgment might be formed of the merits of the case.—This was the practice in courts of justice; an absolute judge should not form his judgment upon any particular foreign statement of facts, but upon the whole view of the cause; if this was proper for a single judge, much more was it for a great number of judges who were absolute in their decision.—It might happen, he said, in this as in other cases, that one part of the evidence might strike one of the judges in a particular way—another part might appear differently to others of the court. In the case of a jury, he observed, the decision was divided, and the judge formed his determination from the facts stated by the jury.—But this did not compare with the situation and office of this house, who were absolute and independent.—He thought that upon these principles it was improper to refer the subject to a committee.—The proofs might appear to the committee in a different light from that in which they would strike the majority of the house. Besides it would be improper to load the journals with a long series of facts which the committee might report.—He contended, that the house, in its original capacity, was the only body by whom the proofs of the parties could properly be examined.

Mr. Boudinot was in favour of the motion. He thought all the facts on which the decision of the house was to be formed, ought to be stated with the utmost precision, and clearly established.—Particular caution, he said, was necessary, when it was to be considered that the present business might be a precedent for future cases; unless the committee should state the facts, it was impossible for the house to obtain a knowledge of the case—suppose there should be witnesses introduced, would it be proper for the house to attend to all the minute circumstances of their evidence? It happened in this case that the evidence was all contained in writings, but the mode now adopted would establish a precedent; and in future the house might be embarrassed with a great body of oral testimony.

Mr. Thatcher opposed the motion.—He thought the house had no right, and if they had, it would be very improper to delegate to any number of men a power of judging for them. The constitution had provided that each house should be the judges of their own elections, evidently intending that it should be in their original capacity.—If the house should take the facts as reported by the committee, they would found their judgment upon the credit or the judgment of others, which might be essentially different from what the house would determine.—If it could be delegated to a committee to examine the proofs, the whole matter might as well be delegated to them; the house would cease to be tryers of the election. They would put the power out of their own hands, and upon what principles and reasons they founded their own judgments, they would be incapable of determining.

This motion gave rise to much further debate which is not necessary to repeat. And the question being put, was negatived.

The house then went into the examination of the evidence in behalf of Mr. Smith; the facts alleged by Dr. Ramsay being admitted.

In this investigation the following facts appeared, that Mr. Smith was born in Charleston, South-Carolina, of a family whose ancestors were among the first settlers of that country.

That he was sent to England before he was 12 years of age, by his father, for his education.

That in 1774 he was sent to Geneva, where he resided till November, 1778.

That in November, 1778, he went to Paris, where he resided upwards of two months in the character of an American gentleman, in which light, he immediately, on his arrival there, waited on Doctor Franklin, Mr. Adams and Mr. A. Lee, the commissioners from congress to the court of France, and was considered by them as an American citizen.

That in January, 1779, he left Paris, and went to London to procure the means of embarking for America, from the gentleman who had been appointed his guardian, by his father, when he was sent to Europe in 1770, and from whom alone he had any hopes of obtaining such means—That he could not procure them, and remained in England in expectation of receiving remittances from Carolina—That the great depreciation of money prevented remittance being made till after the fall of Charleston—That he took this opportunity of studying the law, but would not be called to the bar, because he must have taken the oath of allegiance to Great-Britain.

That after the capture of Charleston, the state of South-Carolina fell also into the hands of the British troops, and it was then impossible for him to go into that country.

That as soon as he had the means, he prepared to return to that country, and quitted London for that purpose in October or November, 1782, not in a vessel bound to Charleston, then a British garrison, and which he certainly would have done, had he considered himself a British subject, and which would have been the most convenient, as there were vessels constantly going from London to Charleston, but he travelled to Ostend and there embarked in a neutral vessel bound to St. Kitt's, from thence it was his intention to proceed to a Danish island, and thence to some American port in North-Carolina or Georgia, from which he could reach the American camp.

That Mr. Smith sailed from Ostend in the beginning of January, 1783, and after being detained a considerable time by contrary winds, was shipwrecked on the coast of England about the middle of February, and was obliged to return to London to procure another passage—These circumstances prevented his return to Charleston till November, 1783.

On his arrival he was received by his countrymen as a citizen of South-Carolina. He was elected a member of the legislature in November, 1784—In August, 1785, he was chosen by the governor and council a member of the privy council, and his election was confirmed by the legislature in the October following—In September, 1785, he was elected one of the wardens of the city of Charleston—In November, 1786, he was again elected into the legislature—And again in November, 1788, at the same time that he was elected to the legislature of the United States—In September, 1788, he was again chosen a warden of the city.

Having produced these facts, Mr. Smith stated some laws of South-Carolina, and adverted to certain facts mentioned in publications referred to by Doctor Ramsay, tending to prove he had been considered by the official acts of the executive, legislative and judicial department of that government, as a citizen of the longest standing, even from the declaration of independence.—At length the question of Mr. Smith's eligibility to a seat, by reason of his having been seven years a citizen of the United States, was put, at the request of Mr. Tucker, who had been applied to by Dr. Ramsay to have the yeas and nays taken on the question, and it was determined in that mode as follows:—

AYES.—Messrs. Baldwin, Benson, Boudinot, Cadwallader, Carroll, Clymer, Coles, Contee, Fitzsimons, Floyed, Gilman, Goodhue, Heester, Huntington, Lawrence, Lee, Leonard, Livermore, Madison, Moore, P. Muhlenberg, Page, Rensellaer, Seney, Schureman, Scott, Sinnickson, Smith (Maryland) Sturges, Silvester, Thatcher, Trumbull, Tucker, Vining, White, Wynkoop.

NO.—Mr. Grout. Adjourned.

MONDAY, MAY 25, 1789.

Mr. Madison, who was, according to notice, to have moved, this day, for the house to go into a committee on the subject of AMENDMENTS to the constitution, thought it expedient, for a number of reasons, to postpone his motion for the present; and gave further notice, that this day fortnight he would bring forward this motion.

Mr. Goodhue moved, that a committee should be appointed to report what compensation would be proper to be allowed to the president, vice-president, &c.

Mr. Page thought it best to go into a committee of the whole on this business.—The question for going into a committee of the whole being put and carried—the house resolved itself into a committee, and Mr. Trumbull was called to the chair.

A resolution was then moved that ———— per annum be allowed the president during his continuance in office, to be paid in four equal quarterly payments.

On this resolution some debate took place respecting the form in which the allowance should be made him ——Whether the blank should be filled up with one gross sum, comprehending a provision for the support of his household and his secretary, or whether the allowance should be divided into two branches; the compensation for his services, and the maintenance of his household. In the course of this debate Mr. Lawrence suggested 25,000 dollars as a proper sum with which to fill up the blank, including his private secretary, clerks, &c.

The committee rose without coming to any resolution.

Mr. Benson from the committee appointed to consider and report the mode of determining on the subject of the New-Jersey election petition reported, that a committee should be appointed who should meet on a certain day to hear the allegations and proofs of the parties, and to report those allegations and proofs to the house. Adjourned.

TUESDAY, MAY 26.

The bill laying duties on tunnage was read the second time.

On motion of Mr. White, voted, That this bill be referred to a committee of the whole—and made the order of the day for to-morrow.

Mr. Scott gave notice, that on to-morrow he should move for leave to bring in a bill for the establishing a land-office, for the sale of the lands in the western territory.

Mr. Page, after some introductory observations, on the ineligibility of electing committees by ballot—moved, that so much of the rule of the house which prescribed that mode should be repealed.

Mr. White proposed, that all committees should be appointed by the speaker, except when the house might order otherwise.

Mr. Lawrence moved, that a committee should be appointed to determine on the mode.

Mr. Lee objected to the appointment of a committee, as there was at that moment no special business before them, he thought the present time the best to take the sense of the house.

Mr. Lawrence withdrew his motion.

M. Smith proposed an amendment to Mr. White's motion by adding, unless five members call for a ballot.

Mr. Page was opposed to all balloting for committees—he thought the mode highly exceptionable, as it might be rendered subservient to the purposes of intrigue—he hoped (he said) never to see another committee chosen in that house by ballot.

Mr. Burke moved for a postponement of the motion, which being put, was carried in the affirmative.

Mr. Smith (South-Carolina) gave notice, that on to-morrow he should move for a committee to bring in a bill on the subject of bankruptcy.

Mr. Sylvester, of the committee appointed to confer with a committee of the senate, on the subject of newspapers, and for receiving proposals for performing the public printing, reported, by which it is proposed, that the secretary of the senate and the clerk of the house shall be empowered to make the necessary contract.

Adjourned.

WEDNESDAY, MAY 27.

On motion, the house resolved itself into a committee of the whole, on a reported bill for imposing a duty on tunnage.

Mr. Thatcher moved to strike out from the enacting clause the words "the congress of the United States," and to insert the words, "the senate and house of representatives of the United States in congress assembled." This gave rise to some interesting debate, and the question being put was lost.

A message was received from the senate informing, that they had appointed a committee to join a committee of this house to agree upon and report a proper mode of receiving messages from the president.

The clerk then proceeded in reading the bill respecting tunnage.

Mr. Parker moved to strike out the words—"and clear," from the clause in the bill which declares, that all ships, &c. which shall enter and clear in any port, &c. shall be subject to a duty.

A motion was made to insert in the bill a clause, imposing a duty of fifty cents on all vessels not built within the United States, which may become the property of the citizens thereof. This, after some debate, was carried.

It was then moved to strike out the clause restraining foreign ships from being employed in the coasting trade, which was negatived.

It was moved to limit the duration of the tunnage-bill, which, after some debate, it was determined in the negative.

This bill will commence its operation on the 15th of June.

The committee rose and reported the same as amended, and it was ordered to lie on the table.

Mr. Fitzsimons, from the committee, appointed for that purpose, presented a bill to regulate the collection of the impost, which was read, and ordered to lie on the table. Adjourned.