

shall forfeit and pay to the man so married the sum of twenty dollars for every thirty days he or they shall fail to make out and deliver the same, which sum may be recovered as other small debts." Resolved in the affirmative.

On motion by Mr. Archer, the question was put, That the following words be stricken out of the third clause? to wit: "and the record, or an exemplification of the record, of such marriage, birth or death, shall be evidence thereof in any court of law or equity of this state, until the contrary shall be proven by competent testimony." Determined in the negative.

On motion by Mr. Archer, the question was then put, That the further consideration of the said bill be referred to the next general assembly? The yeas and nays being required, appeared as follow:

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|------------------------|----------|------------|-----------|----------|------------|---------|------------|----------------|
| A F F I R M A T I V E. | | | | | | | | |
| Messrs | Neale | Harris | Grahame | Stevens | Herbert | Handy | Forwood | Owen |
| | Barber | Belt | Rogerson | Dennis | Miers | Quinton | Streett | Gaither |
| | Gardiner | Ireland | M'Pherson | Cross | Emory | Archer | Downey | Abram Jones 25 |
| | C Hall | | | | | | | |
| N E G A T I V E. | | | | | | | | |
| Messrs | Comegys | Randall | Bennett | Mackubin | T Williams | Cockey | Martin | Hilcary |
| | Welch | Wainwright | Stewart | Boyle | Schley | Willis | Bowles | Perry |
| | Marriott | Bayly | Physick | Burgess | Brooke | Jump | T Hall | J Bayard |
| | R Hall | Jackson | Groome | P Blake | Swearingen | Bland | W Williams | A Browne 35 |
| | Harryman | Eccleston | Bowie | | | | | |

So it was determined in the negative.

The question was then put, Shall the said bill pass? Resolved in the affirmative.

Mr. Boyle delivers a petition from Elizabeth Gwinn and Thomas Harris, jun. of the city of Annapolis, praying a law may pass authorising a sale of the real estate of John Gwinn, deceased; which was read and referred to Mr. Boyle, Mr. Mackubin and Mr. Marriott.

Mr. Cross delivers the following report:

THE committee to whom was referred the leave to bring in a bill, entitled, An act to provide for the election of the levy court in the several counties of this state by the people, beg leave to report, that they have examined into the same, and are of opinion that a change in the present mode of appointing the levy court, cannot be effected without an alteration of the constitution. The committee are decidedly favourable to the principle of placing this election in the hands of the people, but they cannot consent to do it in any other way than by a regular and constitutional procedure.

The 48th act of the constitution, to which the committee beg leave to call the attention of the house, appears to be clear and explicit in regard to this subject. After specifically enumerating certain officers to be appointed by the governor, by and with the advice and consent of the council, (among whom "are all judges, justices, &c.") it emphatically adds, that all other *civil officers* of government, (*assessors, constables and overseers of the roads, only* excepted) are to be appointed by the same authority.

In this broad and comprehensive language of the constitution, your committee are of opinion that a full and competent power is invested in the executive department to appoint the judges of the levy court, for, supposing for a moment, (what your committee have no idea of conceding,) that the levy court is not a judicial branch of the government, yet, it surely cannot be contended, that the judges of the *levy court* are not as much *civil officers of government* as *assessors, constables and overseers of the roads*, who, as such, are expressly recognised by the constitution. But your committee are clearly of opinion, that the levy court possesses peculiarly a judicial character; their province is to *judge of the amount* necessary to defray the current expenses of the several counties, which amount, when so ascertained, they are enjoined by an act of assembly to levy by taxation, and when collected by the sheriffs or collectors, it is to be disposed of as directed by a legislative act; so that the levy court may be said to possess entirely judicial powers, and of course that they come within the meaning of the words "all judges and justices, &c." contained in the 48th act of the constitution before alluded to. Your committee are therefore constrained to report unfavourably, because they conceive that the powers of a single legislature do not embrace the object contemplated by the leave.

By order,

T. MURPHEY, clk.

Which was read.

Mr. Streett delivers a petition from Aquila Jones, of Harford county, praying that money paid by him for improvements erected on his land after the same was affected by a warrant, may be refunded; which was read and referred to Mr. Streett, Mr. Archer and Mr. Forwood.

On motion by Mr. Herbert, the following order was read.

ORDERED. That the honourable executive council be requested to lay before this house a journal of their proceedings for the last year.

Mr. Perry Spencer, a delegate returned for Talbot county, appeared, and after qualifying in the mode prescribed by the constitution and form of government, and taking an oath to support the constitution of the United States, took his seat in the house.

The speaker laid before the house a letter from the clerk of the court of appeals relative to the attendance of the judges; which was read and referred to the committee of grievances and courts of justice.