

[10th CONGRESS.]

No. 228.

[1st SESSION.]

CONTESTED ELECTION OF WILLIAM McCREERY, A REPRESENTATIVE FROM MARYLAND.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, NOVEMBER 9, 1807.

Mr. FINDLEY, from the Committee on Elections, to whom was referred the petition of Joshua Barney, of the city of Baltimore, praying to be admitted to a seat in the House, he having, in his opinion, the highest number of votes given to a candidate legally qualified to represent the said city of Baltimore, having carefully examined the facts stated on both sides, and compared the laws of Maryland, under which the said election was held, with the constitution of the United States, made the following report:

That, by an act of the Assembly of Maryland, passed in November, 1790, it is required that the member shall be an inhabitant of his district at the time of his election, and shall have resided therein twelve calendar months immediately before.

By another act of the Assembly of Maryland, passed in November, 1802, it is enacted that Baltimore town and county shall be the fifth district, which district shall be entitled to send two representatives to Congress, one of whom shall be a resident of Baltimore county, and the other a resident of Baltimore city.

That Joshua Barney is a citizen of Maryland, and has been a resident of the city of Baltimore for many years.

That William McCreery has been, for many years, a citizen of Maryland, and a resident of the city of Baltimore; but that, in the year 1803 he removed himself and his family to his estate in Baltimore county; that, from that time, though he himself has occasionally resided in Baltimore, yet he, with his wife and family, have not made the city of Baltimore their settled residence.

That William McCreery states that his intention was, and still is, to reside with his family on his country estate in summer, and in the city of Baltimore in winter; but that, ever since he has removed his family to his farm, he has been obliged every winter, in the public service, to reside, and frequently with his family, in the city of Washington, which prevented him from removing his family, agreeably to his intention, to the city of Baltimore; but he resided himself in the city of Baltimore five or six days before the election; that he and his family were residing in the same situation, when he was elected to serve in the ninth Congress; that they were when he was elected into the present Congress; that, however, not wishing to have been taken up as a candidate at the last election, he expressed to some of his friends some apprehensions that exceptions might be made, on account of his constant family residence not being in the city of Baltimore.

At the election in that district for the Congress now in session, Nicholas R. Moore had 6,164 votes; he is a resident in Baltimore county; and William McCreery, against whose right to a seat in this House objection is made on account of residence, had 3,559 votes; and Joshua Barney, who claims a seat in this House, and who, it is admitted, is a resident in Baltimore city, had 2,063 votes; and John Seat, also a resident in Baltimore city, had 353 votes. The above statement of facts being admitted by the parties, further evidence was not required. No question was taken on the legal residence of William McCreery in the city of Baltimore.

The committee proceeded to examine the constitution, with relation to the case submitted to them, and find that the qualifications of members is therein determined, without reserving any authority to the State Legislature to change, add, or diminish those qualifications; and that, by that instrument, Congress is constituted the sole judge of the qualifications prescribed by it, and are obliged to decide agreeably to the constitutional rules; but the State Legislatures being, by the constitution, authorized to prescribe the times, place, and manner of holding elections, in controversies arising under this authority Congress are obliged to decide agreeably to the laws of the respective States.

On the most mature consideration of the case submitted to them, the committee are of opinion that William McCreery is duly qualified to represent the fifth district of the State of Maryland; and that the law of that State, restricting the residence of the members of Congress to any particular part of the district for which they may be chosen is contrary to the constitution of the United States: therefore

Resolved, That William McCreery is entitled to his seat in this House.

[NOTE.—See No. 232.]

[10th CONGRESS.]

No. 229.

[1st SESSION.]

SLAVERY IN THE INDIANA TERRITORY.

COMMUNICATED TO THE SENATE, NOVEMBER 13, 1807.

Mr. FRANKLIN, from the committee to whom was referred the representation and resolution of the Legislative Council and House of Representatives of the Indiana Territory, bearing date the 13th of July, 1807; and, also, the remonstrance of the citizens of Clark county, of the Territory aforesaid, reported:

The Legislative Council and House of Representatives, in their resolutions, express their sense of the propriety of introducing slavery into their Territory, and solicit the Congress of the United States to suspend, for a given number of years, the sixth article of compact, in the ordinance for the government of the Territory northwest of the river Ohio, passed the 13th day of July, 1787. That article declares: "there shall be neither slavery nor involuntary servitude in the said Territory."

The citizens of Clark county, in their remonstrance, express their sense of the impropriety of the measure, and solicit the Congress of the United States not to act on the subject, so as to permit the introduction of slaves into the Territory; at least until their population shall entitle them to form a constitution and State Government.

Your committee, after duly considering the matter, respectfully submit the following resolution:

Resolved, That it is not expedient at this time to suspend the sixth article of compact for the government of the Territory of the United States northwest of the river Ohio.

In the Legislative Council and House of Representatives of the Indiana Territory.

Great solicitude has been evinced by the citizens of this Territory on the subject of the introduction of slaves. In the year 1802 a special convention of delegates from the respective counties petitioned Congress for a suspension of the sixth article of compact, contained in the ordinance of 1787. In 1805 a majority of the members of the Legislative Council and House of Representatives remonstrated with Congress on the subject. In 1806 the Legislative Council and House of Representatives passed sundry resolutions, which were laid before Congress, declaratory of their sense of the propriety of admitting slaves; and, as the citizens of the Territory decidedly approve of the toleration of slavery, the Legislative Council and House of Representatives consider it incumbent on them briefly to state, on behalf of themselves and their constituents, the reasons which have influenced them in favor of the measure.

In the first place, candor induces us to promise that, in regard to the right of holding slaves, a variety of opinion exists; whilst some consider it decent and just to acquire them either by purchase or conquest, others consider their possession, by either tenure, as a crime of the deepest stain; that it is repugnant to every principle of natural justice, of political rights, and to every sentiment of humanity. Without entering into the merits of this controversy, it need only to be remarked, that the proposition to introduce slavery into the Territory is not embraced by them. It is not a question of liberty or slavery. Slavery now exists in the United States, and in this Territory. It was the crime of England, and their misfortune; and it now becomes a question, merely of policy, in what way the slaves are to be disposed of, that they may be least dangerous to the community, most useful to their proprietors, and by which their situation may be most ameliorated.

As the law of Congress, prohibiting the further importation of slaves into the United States, takes effect the 1st of January next, it is evident that the proposed toleration will not increase the number in the United States.

It is believed (and has not experience verified the fact?) that such is the number of slaves in the Southern States, that the safety of individuals, as well as the political institutions of those States, are exposed to no small hazard. However desirable it may be to emancipate them, it can never be done until they are dispersed; it would be equally impolitic for the whites as for the slaves. The great current of emigration is constantly flowing from the Eastern and Southern States to the Western States and Territories. The increase of population in the western country for the last twenty years may afford some idea of its probable amount in the course of the present century; it must be immense; and were all the Territories opened to the introduction of slaves, a large proportion of them would naturally be drawn from the Southern States.

From a reference to the States of Kentucky and Tennessee at the time of the last United States' census, it is not believed that the number of slaves would ever become so great as to endanger either the internal peace or future prosperity of the Territory. It is also rendered improbable from the interior situation of the Territory, its climate, and productions.

Slavery is tolerated in the Territories of Orleans, Mississippi, and Louisiana: why should this Territory be excepted?

It is believed that slaves, possessed in small numbers by farmers, are better fed and better clothed than when they are crowded together in quarters by hundreds: their situation in Kentucky, Tennessee, and the back parts of Maryland and Virginia, verify this belief.

Resolved, by the Legislative Council and House of Representatives of the Indiana Territory, That it is expedient to suspend for a given number of years the sixth article of compact, contained in the ordinance for the government of the Northwestern Territory, passed the 13th day of July, in the year 1787.

Resolved, That a copy of the foregoing be forwarded to the Vice President of the United States, with a request that he will lay the same before the Senate; and that a copy be forwarded to the Speaker of the House of Representatives, with a request that he will lay the same before the said House of Representatives; and that the Governor of this Territory be requested to forward the same, as aforesaid.

JESSE B. THOMAS, *Speaker of the House of Representatives.*

SAMUEL GWATHMEY, *President pro tem. of the Legislative Council.*

Passed the Legislative Council, September 19, 1807.

Attest: H. HURST, *Chief Clerk.*

At a numerous meeting of the citizens of Clark county, in Springville, (agreeably to notice previously given,) on Saturday, the 10th day of October, 1807, for the purpose of taking into consideration the resolutions passed at the last session of the Legislature of the Indiana Territory, praying the Congress of the United States to suspend for a certain time the sixth article of compact contained in the ordinance, Mr. John Beggs was chosen chairman, and Davis Floyd, secretary. On motion,

Ordered, That a committee of 5 suitable persons be appointed to draught and report to this meeting, a memorial to Congress, in opposition to the resolutions of the Legislature of the Indiana Territory, on the subject of slavery in this Territory, by the suspension of the sixth article of compact contained in the ordinance.

And the said committee was appointed of Messrs. Abraham Little, John Owens, Charles Beggs, Robert Robertson, and James Beggs.

Mr. Little, from the aforesaid committee, reported a memorial, pursuant to the aforesaid order, in the words and figures following, viz:

To the Senate and House of Representatives of the United States, in Congress assembled:

The memorial of the citizens of Clark county, humbly sheweth that great anxiety has been, and still is, evinced by some of the citizens of this Territory, on the subject of the introduction of slavery into the same; but in no case has the voice of the citizens been unanimous. In the year 1802, at a special convention of delegates from the respective counties, a petition was forwarded to Congress, to repeal the sixth article of compact contained in the ordinance; but the representation of all that part of the Territory east of Vincennes were present, and were decidedly opposed to that part of the petition.

In the year 1805 the subject was again taken up and discussed in the General Assembly, and a majority of the House of Representatives voted against said memorial on the aforesaid subject, and, consequently, the memorial was rejected, as the journals of that House doth sufficiently evince; but a number of citizens thought proper to sign the same, and, amongst the rest, the Speaker of the House of Representatives and the President of the Council, (though the President of the Council denies ever having signed the same;) and, by some legislative legerde-

main, it found its way into the Congress of the United States, as the legislative act of the Territory. In the present year of 1807, the subject was again taken up by the Legislature of this Territory, and a majority of both Houses passed certain resolutions (in the proportion of two to one) for the purpose of suspending the sixth article of compact contained in the ordinance, which we presume are before your honorable body. But let it be understood, that in the Legislative Council there were only three members present, who, for certain reasons, positively refused to sign the said resolutions; and they were reduced to the last subterfuge of prevailing on the president to leave his seat, and one of the other members to take it as president *pro tem.*, for the purpose of signing the said resolutions. Whether this be right or wrong, judge ye. And although it is contended by some, that, at this day, there is a great majority in favor of slavery, whilst the opposite opinion is held by others, the fact is certainly doubtful. But when we take into consideration the vast emigration into this Territory, and of citizens, too, decidedly opposed to the measure, we feel satisfied that, at all events, Congress will suspend any legislative act on this subject until we shall, by the constitution, be admitted into the Union, and have a right to adopt such a constitution, in this respect, as may comport with the wishes of a majority of the citizens. As to the propriety of holding those in slavery whom it hath pleased the Divine Creator to create free, seems to us to be repugnant to the inestimable principles of a republican Government. Although some of the States have, and do hold slaves, yet it seems to be the general opinion, even in those States, that they are an evil from which they cannot extricate themselves. As to the interest of the Territory, a variety of opinions exist; but suffer your memorialists to state, that it is a fact that a great number of citizens, in various parts of the United States, are preparing, and many have actually emigrated to this Territory, to get free from a Government which does tolerate slavery. The toleration of slavery is either right or wrong; and if Congress should think, with us, that it is wrong, that it is inconsistent with the principles upon which our future constitution is to be formed, your memorialists will rest satisfied that at least this subject will not be by them taken up until the constitutional number of the citizens of this Territory shall assume that right. It is considered useless for your memorialists to recapitulate the many reasons and objections which might be advanced, relying that this subject is fully and fairly understood by your honorable body, as it relates to the natural right, policy, and prosperity of a free and independent nation. On motion,

Resolved, That the chairman be requested to forward duplicate copies of these proceedings, (signed by the said chairman, and countersigned by the secretary,) one to the Vice President of the United States, or President of the Senate *pro tem.*, and one to the Speaker of the House of Representatives in the Congress of the United States.

By order of the meeting,

JOHN BEGGS, *Chairman.*

Attest: DAVIS FLOYD, *Secretary.*

[10th CONGRESS.]

No. 230.

[1st SESSION.]

BURR'S CONSPIRACY—TRIAL AT RICHMOND, VIRGINIA.

COMMUNICATED TO CONGRESS, NOVEMBER 23, 1807.

To the Senate and House of Representatives of the United States:

Agreeably to the assurance given in my message at the opening of the present session of Congress, I now lay before you a copy of the proceedings and of the evidence exhibited on the arraignment of Aaron Burr and others, before the circuit court of the United States held in Virginia, in the course of the present year, in as authentic form as their several parts have admitted.

TH: JEFFERSON.

NOVEMBER 23, 1807.

At a court of the United States for the fifth circuit in the Virginia district, commenced and holden at the Capitol, in the city of Richmond, on Friday, the twenty-second day of May, in the year of our Lord one thousand eight hundred and seven, and of the independence of the United States the thirty-second.

VIRGINIA DISTRICT:

In the circuit court of the United States of America, in and for the fifth circuit and Virginia district.

The grand inquest of the United States of America for the Virginia district, upon their oaths do present, that Aaron Burr, late of the city of New York, and State of New York, attorney-at-law, being an inhabitant of and residing within the United States, and under the protection of the laws of the United States, and owing allegiance and fidelity to the same United States, not having the fear of God before his eyes, nor weighing the duty of his said allegiance, but being moved and seduced by the instigation of the devil, wickedly devising and intending the peace and tranquillity of the said United States to disturb, and to stir, move, and excite insurrection, rebellion, and war, against the said United States, on the tenth day of December, in the year of Christ one thousand eight hundred and six, at a certain place called and known by the name of Blannerhasset's island, in the county of Wood, and district of Virginia aforesaid, and within the jurisdiction of this court, with force and arms, unlawfully, falsely, maliciously, and traitorously did compass, imagine, and intend to raise and levy war, insurrection, and rebellion against the said United States; and in order to fulfil and bring to effect the said traitorous compassings, imaginations, and intentions of him, the said Aaron Burr, he, the said Aaron Burr, afterwards, to wit, on the said tenth day of December, in the year one thousand eight hundred and six aforesaid, at the said island, called Blannerhasset's island as aforesaid, in the county of Wood aforesaid, in the district of Virginia aforesaid, and within the jurisdiction of this court, with a great multitude of persons, whose names at present are unknown to the grand inquest aforesaid, to a great number, to wit, to the number of thirty persons and upwards, armed and arrayed in a warlike manner,