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**JOURNAL**

OF

**THE HOUSE OF REPRESENTATIVES**

OF

**THE UNITED STATES:**

BEING

**THE FIRST SESSION OF THE TWENTY-EIGHTH CONGRESS;**

**BROWN AND BELD**

**AT THE CITY OF WASHINGTON,**

**DECEMBER 4, 1843,**

**IN THE SIXTY-EIGHTH YEAR OF THE INDEPENDENCE OF THE UNITED STATES.**

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**WASHINGTON:**

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**1844.**

Mr. John Quincy Adams presented additional documents in the case of John M. Botts, who contests the right of John W. Jones to a seat as a member of the twenty-eighth Congress.

Mr. Newton also presented additional documents in the same case.

The Speaker *pro tem.* also presented an additional document in the same case.

*Ordered,* That the said documents be referred to the Committee of Elections.

The House proceeded to the consideration of the resolution moved by Mr. Garrett Davis, on the 13th instant, instructing the Committee of Elections to inquire and report whether the members from the States of New Hampshire, Georgia, Mississippi, and Missouri, were elected in conformity to law; the question being on the amendment moved by Mr. Jameson to strike out the words "Committee of Elections," and insert in lieu thereof "Committee of the Whole House on the state of the Union;" which amendment was pending on that day when the House passed to other business.

Mr. Jameson withdrew his said amendment; when

A motion was made by Mr. Kennedy to amend the said resolution, by striking out all after the word "Resolved," and inserting the following, to wit: "that the members of this House from the States of New Hampshire, Missouri, Mississippi, and Georgia, are properly and constitutionally elected by a general ticket, and are as much entitled to seats on this floor as the members from any other of the States of this Union;" when

Mr. G. Davis, at the suggestion of Mr. Elmer, modified his resolution to read as follows:

*Resolved,* That the Committee of Elections be directed to examine and report upon the certificates of election, or the credentials of the members returned to serve in this House; and that they inquire and report whether the several members of this House have been elected in conformity with the Constitution and law."

The pending amendments fell.

And the question recurred on agreeing to the resolution of Mr. G. Davis, as modified; when, by unanimous consent, the House passed to other business.

A message, in writing, was received from the President of the United States, by Mr. John Tyler, jr., his private secretary: which was read, and is as follows:

*To the House of Representatives:*

I received, within a few hours of the adjournment of the last Congress, a resolution "directing payment of the certificates or awards issued by the commissioners under the treaty with the Cherokee Indians." Its provisions involved principles of great importance, in reference to which it required more time to obtain the necessary information than was allowed.

The balance of the fund provided by Congress for satisfying claims under the seventeenth article of the Cherokee treaty, referred to in the resolution, is wholly insufficient to meet the claims still pending. To direct the payment, therefore, of the whole amount of those claims which happened to be first adjudicated, would prevent a ratable distribution of the fund among those equally entitled to its benefits. Such a violation of the individual rights of the claimants would impose upon the Govern-

ment the obligation of making further appropriations to indemnify them; and thus Congress would be obliged to enlarge a provision liberal and equitable, which it had made for the satisfaction of all the demands of the Cherokees. I was unwilling to sanction a measure which would thus indirectly overturn the adjustment of our differences with the Cherokees, accomplished with so much difficulty, and to which time is reconciling those Indians.

If no such indemnity should be provided, then a palpable and very gross wrong would be inflicted upon the claimants who had not been so fortunate as to have their claims taken up in preference to others. Besides, the fund having been appropriated by law to a specific purpose, in fulfilment of the treaty, it belongs to the Cherokees; and the authority of this Government to direct its application to particular claims is more than questionable.

The direction in the joint resolution, therefore, to pay the awards of the commissioners, to the amount of one hundred thousand dollars, seemed to me quite objectionable, and could not be approved.

The further direction, that the certificates required to be issued by the treaty, and in conformity with the practice of the board heretofore, shall be proper and sufficient vouchers upon which payments shall be made at the treasury, is a departure from the system established soon after the adoption of the Constitution, and maintained ever since. That system requires that payments, under the authority of any department, shall be made upon its requisition, countersigned by the proper Auditor and Comptroller. The greatest irregularity would ensue from the mode of payment prescribed by the resolution.

I have deemed it respectful and proper to lay before the House of Representatives these reasons for having withheld my approval of the above-mentioned joint resolution.

JOHN TYLER.

WASHINGTON, December 18, 1843.

*Ordered,* That the said message do lie on the table.

Under the 24th rule of the House, petitions and memorials were handed to the Clerk, as follows:

By Mr. Tyler: The petition of Joseph P. Peters—presented heretofore February 10, 1843: which petition was referred to the Committee on Revolutionary Pensions.

Also, the petition of Gervis Foote—presented heretofore January 7, 1843: which petition was referred to the Committee of Claims.

By Mr. Steenrod: The petition of Daniel Steenrod—presented heretofore December 22, 1841: which petition was referred to the Committee of Claims.

By Mr. Stetson: The petition of John McLaughlin—heretofore presented March 30, 1840: which petition was referred to the Committee on Private Land Claims.

By Mr. Stetson: The petition of Benjamin S. Roberts—presented heretofore July 18, 1842: which petition was referred to the Committee on the Judiciary.

By Mr. Stetson: The petition of Solomon Fitch and others—presented heretofore January 7, 1843: which petition was referred to the Committee of Claims.

By Mr. Stetson: The petition of William Bailey and Elizabeth Sweet-