

majority of the Legislature, are also banned. The Governor cannot take the ironclad oath; neither could a large majority of the Senate, and yet the 24th section of the supplemental act of reconstruction requires it. But, Senators, the test in the reconstruction acts does not apply to us now; they expired with the Provisional Government; they have accomplished the purpose for which they were intended, and that was to get us back in the Union. When he took his seat, as Senator, he simply qualified. How did the Senate know that he was not banned? Simply from his own declaration. Simply on the virtue of his own veracity, and in that manner all of them were admitted. Maj. Avery says he will swear he did not take an oath to support the Constitution of the United States. The Senate believed him. (Mr. Robbins.) Why not believe Maj. Avery, you say, he did take the oath. Prove it. Why say you do not believe him; why insult his constituents by saying you doubt the veracity of their favorite; why insult North Carolinians by impeaching the veracity of her honored son? Again, Mr. Avery was elected to the office of Solicitor just two weeks before the State seceded. It was out of fashion at that time here to take such oaths. When he says he did not take it, it is presuming a great deal to say he did, and if he did not take the oath according to law, he was never Solicitor. He may have acted as such, but was never legally qualified.

Again, Mr. Avery was elected just two weeks before the State seceded—at least a month after the war had actually begun. What does the Howard amendment say? It says those who held an office prior to the war and took an oath to support the Constitution of the United States. There is no evidence here that he did take the oath, and if you vote to expel him, you vote in the dark. He did not believe they would do it, but, if they did, he did not know how they would answer to their consciences or to their constituents.

At this stage of the discussion the President stated that the question before the Senate was the reconsideration to postpone; but he would not rule that it was out of order, unless there was objection made by Senators. Objection was made.

It was here ascertained that Mr. Long did not vote with the majority, and had no right to make the motion to reconsider. Mr. Jones of Wake, renewed the motion.

Consequently, Mr. Moore, of Carteret, called the previous question.

The yeas and nays were called and the Senate voted to reconsider by the following vote, viz:

Yeas—Messrs. Barrow, Bellamy, Braden, Burns, Blythe, Colgrove, Cook, Davis, Evans, Etheridge, Epps, (colored), Forkner, Hayes, Hyman, (colored), Jones, of Wake, Lester, Long, Moore, of Carteret, Moore, of Yancy, Richardson, Shoffner, Smith, Stevens, Walker, White, and Wynne—26.

NAYS—Messrs. Beasley, Beaman, Graham, Lindsay, Love, Melchor, McLaughlin, Pardin, Rich, Respass, Robbins, Winslow and Wilson—13.

The question recurring on the original resolution to vacate the seat, Mr. Hays said that if the Senate had decided, on yesterday, that the Senator was not entitled to his seat, and he had not gotten his disabilities removed, he was clearly not entitled to it now. As to the talk about the party being magnanimous and liberal, they do not deserve any liberality, as they have never shown any.

Mr. Graham said that Judge Pearson had given it as his decision, in Chambers, that the Howard amendment did not apply to county officers, and it was also the decision of Judges Brooks, Buxton and Russell. If, in the face of these opinions, you decide that it does, he asked for no liberality but for simple justice, and he asked all Senators to vote upon this question simply as a vote of law. It was clear that it was not taking an oath or holding an office that ban a man, but both. Is a county Solicitor an office of the State? He is not a commissioned officer; he is neither a Judicial or an Executive officer, but, like Sheriffs, he is a ministerial officer, and that is the point decided by Judge Pearson. Are you now satisfied that Maj. Avery was either an Executive or Judicial officer, or one satisfied that he took an oath? He was satisfied from the experience he had had in law, and acting under a solemn oath, that Mr. Avery was not banned by the Howard Amendment. You hold that he was a Judicial officer, and I deny it, with Judge Brooks' decision to sustain me. If there is any doubt about these decisions, why such haste? Why not wait until a decision can be had by the Supreme Court or a certified copy from Judge Brooks?

Mr. More, of Carteret, called the previous question.

Mr. Rich asked him to withdraw it, in order to allow him to move a reconsideration to the Committee, but the motion was insisted on, and carried.

The yeas and nays were called and the resolution passed as follows:

Yeas—Messrs. Barrow, Bellamy, Braden, Burns, Blythe, Colgrove, Cook, Davis, Evans, Etheridge, Epps, (colored), Forkner, Galloway, (colored), Hayes, Hyman, (colored), Lester, Long, Martindale, Moore, of Carteret, Smith, Stephens, Walker, White and Wynne—24.

NAYS—Messrs. Beasley, Beaman, Graham, Jones, of Wake, Lindsay, Love, Melchor, Moore, of Yancy, McLaughlin, Pardin, Rich, Richardson, Respass, Robbins, Winslow and Wilson—16.

A. H. Galloway's, (colored), explanation of his vote in the affirmative was that Mr. Avery, in the campaign, had held his (Galloway's) name up to scorn, and told his people to scratch the name of the "dam nigger" off the ticket. Therefore, he would vote against admitting him.

On motion, the Senate adjourned until to-morrow 11 o'clock.

### HOUSE OF REPRESENTATIVES.

FRIDAY, NOV. 20, 1868.

The House was called to order at 10 o'clock.

Prayer by Rev. B. W. Morris, colored, of the House.

The Chair announced that he had received a communication from S. D. Winkle, Esq., the member from Jones stating that he was absent from his seat, on account of bad health.

Leaves of absence for a short time were granted to Messrs. Parker, Pearson, McMillan and French.

Mr. Hicks was changed, at his request, from the Committee on Finance to the Committee on Education.

By Mr. Ingram: A bill concerning the qualifications of officers.

Mr. I. said that he introduced the bill more at the request of the counsel of his county Commissioners, than from any feeling of the matter. The bill was read and referred to the appropriate Committee.

By Mr. Pon: A bill entitled an act to amend an act establishing a rate of interest and to repeal Chapter 114, Revised Code, entitled "Caury."—Referred.

By the same: A bill to regulate the sale of State bonds, by Railroad Companies. Referred.

By Mr. Franklin: A bill entitled an act to amend an act establishing a Special Court in the city of Wilmington, Lies over.

CALENDAR.

The bill repealing Sec. 14 of the Act concerning the government of counties was taken up and put on its 3rd reading, when,

Mr. Seymour offered the following amendment, which was adopted:

WHEREAS, doubts have arisen in regard to the proper construction of the sub-division 14, sec. 8, of an act entitled an act concerning the government of counties, approved Aug. 14, 1868, and the Commissioners of counties in some parts of the State have been advised that it was their duty to cause new surveys of their counties to be made and map of the same filed with the Secretary of State, before Jan. 1st, 1869, contrary to the intention of the farmers of said act:

Therefore, For the purpose of removing all doubt in the premises, the General Assembly of North Carolina do enact: That sub-division 14, of sec. 8, of said act shall not be so construed as to make a survey of their counties mandatory, upon the Commissioners, but such survey shall be made, when, in the opinion of the Commissioners, it is necessary for the proper defining of township boundaries, at such time as may be convenient, and, when made, a map and survey shall be filed, as provided by said section.

The bill, as amended, then passed its 3rd reading, and was ordered to be engrossed and sent to the Senate.

House resolution No. 2, introduced by Mr. Sinclair, yesterday, which provides that such Trustees of the University, as are not members of the Assembly, shall receive the same per diem and mileage as members, while attending the annual session of the Board, was next debated.

Mr. French offered a substitute, paying such persons \$3 per day and 16 cents mileage, while actually engaged in such duty.

Mr. Sinclair said that he had offered the resolution in good faith. His object in doing so was to bring the matter before the House.

He was opposed to allowing a few men around the Capitol to have the complete control of affairs. Now a great many of these Trustees were poor men, and could not afford to leave their homes and business and come here at their own expense. He would, however, accept the substitute of the gentleman from New Hanover, (Mr. French).

The Chair said by the original and substitute had become property of the House.

J. H. Harris, of Wake, colored who voted in the affirmative, for the purpose, moved a reconsideration of the vote.

Mr. French said he would support the motion to reconsider. He thought that all the State should be represented upon the Board of Trustees, and wished to pay those gentlemen attending the sessions of the Board, their expenses, while engaged in that duty, and nothing more. He thought \$3 per day and 16 cents mileage amply sufficient. In his opinion, members of this House were receiving too much per diem and mileage.

Mr. Ingram thought the matter premature, and, therefore, opposed the motion to reconsider. He thought the affairs of the University in good hands, and, when action on the part of the House, in regard to its affairs, was necessary, they would hear from the Trustees in a proper manner.

J. H. Harris, of Wake, colored, again spoke in support of the motion. He wished the matter reconsidered and then laid over for some convenient day.

After some discussion, he withdrew his motion to reconsider, with the understanding that the matter would be again taken up.

During the above debate, a message was received from the Governor, transmitting the reports of the Public Treasurer and the Board of location of the Penitentiary.

On motion of Mr. Bowman, the reports were ordered to be printed.

By Mr. Smith, of Martin: A bill reviving and putting in force the provisions of Chapter 62, Section 11, of the Revised Code, in relation to staying the execution of claims, and repealing all stay laws and parts of stay laws now in force in the State, passed since the year 1861.

Mr. Gunter moved to indefinitely postpone it.

Upon that motion, the yeas and nays were demanded.

The call, being sustained, resulted, yeas, 81; nays, 21.

The House then adjourned until to-morrow, 10 o'clock.

### SENATE.

The Senate was called to order at 11 o'clock.

Mr. Brogden, from the Committee on Finance, to whom was referred a bill to provide for the collection of taxes in the county of Carteret for the year 1868, reported favorably.

Mr. Long, from the Committee on Privileges and Elections, to whom were referred the credentials of James G. South, Senator elect from the 12th District, reported favorably, and the Senator qualified and took his seat.

By Mr. Barrow: A bill to amend title 7, section 72, of the Civil Code of Procedure. Referred to the Committee on the Judiciary.

By the same: A bill to amend sec. 19, chap. 119, of the Revised Code. Takes its place on the Calendar.

CALENDAR.

Resolutions instructing the State Librarian, with the advice of the Governor, to purchase certain volumes, for the use of the State Library, was taken up. Numerous amendments were offered, and,

On motion of Mr. Respass, the whole matter was referred to the Committee on Public Library.

Mr. Robbins arose to a question of privilege. He did not know that it was a matter that Senators were interested in, but it was of some interest to himself. He had been misrepresented by one of the newspapers published in this city (the Standard). He was accused of saying things that he did not say, and also of going over to their party. He considered it a serious charge, and one calculated to do him more injury than an open attack could. He was a Democrat and expected to remain one until the sun should rise in the West and set in the East. They may have written the article in jest, but he thought it entirely too serious a matter to trifle with. A man's principles are as sacred as the virtue of a woman. He had no idea of concealing his politics, and desired to be above suspicion.

The President said that, in justice to the Reporter, he would state, that he saw the article before it appeared, and the Reporter was not responsible, as the article appeared as an Editorial.

Mr. Robbins replied that his remarks were well aimed, and they had hit where he intended.

On motion of Mr. White, the Senate adjourned until Monday-morning, 11 o'clock.

### SENATE.

MONDAY, NOV. 23, 1868.

The Senate was called to order at 11 o'clock.

Prayer by Rev. Mr. Whitson.

Mr. Blythe presented a petition from certain citizens, protesting against the removal of certain Trustees of the Anderson Female College. Referred to the Committee on Propositions and Grievances.

INTRODUCTION OF BILLS, RESOLUTIONS, &c.

By Mr. Welker: A bill authorizing contracts for the State to be advertised in at least three extensively circulated newspapers. Referred to the Committee on the Judiciary.

By Mr. Long: A bill to incorporate the Silver Hill Railroad Company. Referred to the Committee on Internal Improvements.

By Mr. Purdie: A bill to enable persons taking an appeal, and owning property less than the Constitutional exemption, to give bond. Referred to the Committee on the Judiciary.

By Mr. Jones, of Wake: Bill to incorporate the North Carolina Mutual Home Insurance Company. Referred to the Committee on Finance.

By Mr. Bellamy: A resolution instructing the Committee on Privileges and Elections to inquire into the eligibility of members holding seats in the Senate. Adopted.

By Mr. Smith: A resolution proposing to employ a Chaplain for the Senate, with the pay of \$1 per day.

Mr. Robbins opposed the resolution, for the reason that if he proposed to pay for praying, the amount proposed was too meagre for a Chaplain; secondly, he preferred the plan heretofore adopted, the Clergy of the Senate and House performing that duty. It would most likely prepare them better for the business.

Mr. Welker thought it was a serious matter. He alluded to the indifference manifested during prayers, and unless the devotions of the body could be more seriously and profitably observed, he was opposed to it altogether.

Mr. Blythe would have no objection to the resolution, provided the members would pay it out of their own pockets, but was not in favor of it, if the people had to be taxed.

Mr. Rich would oppose the resolution if the members had to pay the expense, as he thought there were enough preachers in the body to perform the duty. When

On motion of Mr. Moore of Yancey, the resolution was laid upon the table.

By Mr. McLaughlin: A resolution instructing the Judiciary Committee to report a bill to suspend the statute of limitations in regard to old debts, so long as the stay law is enforced.—Adopted.

By Mr. Barrow: A resolution authorizing the Superintendent of the Insane Asylum to insure said property. Referred to the Committee on Public Charities.

CALENDAR.

Bill to provide for the collection of taxes for the year 1868, for Carteret county. Passed its second reading.

Bill to amend section 19, chap. 118, of the Revised Code. Passed its second reading.

A message was received from the House transmitting "A Bill fixing the time for holding the Superior Court in the County of Henderson."

Mr. Blythe moved to suspend the rules and put the bill on its several readings. Lost.

A message was received from the Governor, transmitting a communication from one W. O. Hodgen, of Macon County, urging the removal of Senator W. L. Love, of the 43rd District, charging that he is banned by the Howard amendment; and that he (Mr. Love) has been boasting that, although he is banned, he still retains his seat.

On motion of Mr. Moore, of Carteret, it was referred to the Committee on Propositions and Grievances.

Mr. Love arose to a question of privilege. He said that, for fear that the nature of this communication from the Governor might prejudice Senators in regard to his case, he desired to brand the charge, that he had boasted that he was banned, as an infamous falsehood, and that he was ready to undergo an examination at any time.

On motion, the Senate adjourned until to-morrow, 11 o'clock.

[Note—The Reporter was in error, on Saturday, in stating that the President of the Senate had seen the allusion in reference to Senator Robbins, which appeared in the Standard before its publication. He remarked that he had seen the article in the paper, and noticed that it was an editorial. Therefore, he did not think the Reporter of that paper should be held responsible. Neither did the rest of Mr. Robbins apply to the President, but to another, whom he had reason to believe did write it.]

HOUSE OF REPRESENTATIVES.

MONDAY, NOV. 23, 1868.

House called to order at 10 o'clock.

Prayer by the Rev. Mr. Long, of Chatham, of the House.

Mr. Robinson presented the report of the Commissioners of the county of Macon, accompanied by a survey and map of that county.

T. A. Sykes, colored, presented the report of the Commissioners of Pasquotank.

A short leave of absence was granted to Mr. Renfrow.

By Mr. Sinclair: A resolution, instructing the Committee on Finance to bring in a bill regulating the internal revenue of the State, and that no appropriation shall pass the House, unless such bill is rendered.—Lies over.

By Mr. Malone: A bill entitled an act in regard to the method of obtaining a license to practice law in the State.

[This bill enacts that all persons, who have heretofore been examined and obtained license from the Supreme Court, to practice in the County Courts, as they heretofore existed, shall be allowed to practice in all the Courts of the State, on making it appear, to the satisfaction of the presiding Judge, that he has diligently applied himself to the study of the law for the period of twelve months since the date of the County Court license.]

By the same: A bill for the benefit of securities and endorsees.

[This bill provides that, in all cases where any security or endorser on any note, bill, bond, or other written obligation, shall consider himself in danger of loss, in consequence of his contingent liability, either from the insolvency or misconduct of the principal in said note, &c., or from the negligence of the payee or holder of any such instrument, it shall be lawful for such security or endorser, at any time after such note, &c., shall have become due and payable, to cause written notice to be given to the payee or holder of any such paper or obligation, requiring him to bring suit on said obligation, and to use all reasonable diligence to save the harmless such security or endorser. The bill further provides that if the payee or holder of any such instrument should refuse or fail, within thirty days from the service of such notice, to bring suit, or

to employ reasonable efforts and diligence to save harmless such endorser or security, such failure shall operate as a discharge of such security or endorser from all liability on any such note, bond, &c.; provided, that this notice shall not have the effect to discharge from liability any co-security, who does not join in such notice, or who has not given a separate notice required by this act. This bill does not apply to holders of such bills, &c., who hold the same as collateral security or on trust.]

Both of the above bills were referred to the Committee on the Judiciary.

By Mr. Seymour: A bill to amend the act concerning the fees of Clerks of the Superior Courts, Sheriffs, &c.—Referred.

By Mr. Cassler: A bill to change the time of holding the Superior Court in Henderson county.

Mr. Chandler gave the reason why such change should be made, and that it was necessary to make it speedy use. Therefore he moved to suspend the rules and put the bill on its several readings.

Mr. Bowman supported the bill, and read a communication from Judge Cannon, Solicitor Henry, and others, asking for the change.

The rules were suspended, and the bill passed its several readings, and was ordered to be engrossed and sent to the Senate.

By consent, Mr. Seymour introduced a resolution directing the keeper of the Capitol to renovate the Supreme Court in their old rooms, and instructing the Committee on Public Buildings to secure in the Capitol suitable rooms for the Superintendent of Education and Auditor. If no suitable room could be found in the building, others should be procured, outside, at an expense not exceeding \$5000 per month.

Mr. Seymour proceeded to explain the manner in which the Supreme Court had been ejected from their rooms, last session, and the change was disagreeable to all the Judges of that Court. He had spoken to about the matter, and thereupon, brought the matter to the attention of the House.

The resolution went over under the rule.

CALENDAR.

House bill No. 14 (introduced by Mr. Franklin, of Wake): This bill amends the act establishing special Courts in Newbern and Wilmington, so as to create the same Court in Raleigh. The bill was read and passed its third reading, without opposition.

House bill, No. 18, (introduced by Mr. Nicholson, of Iredell): This bill confers the powers given by the Revised Code, chapter 91, to the County Court, in reference to the building of public mills, upon the Commissioners of counties.

Mr. Nicholson made a brief explanation of this bill, when it was put on its second reading and passed.

The Calendar being exhausted, Mr. Sinclair's resolution, instructing the Finance Committee to bring in a bill regulating the internal revenue of the State, and providing that the House should not pass any appropriation until such bill is rendered, was taken up.

Mr. Bowman moved to amend, by striking out the words "before any other appropriation is made," saying he should support the resolution, if the amendment was adopted.

Mr. Sinclair refused to accept it, saying those words contained the pith and object of the resolution.

The amendment was put to a vote and lost.

Mr. Seymour asked if it was the opinion that, if this resolution was adopted, in its present shape, it would bind the House to a certain course of action? They could not appropriate any trifling sum to meet any incidental or contingent expense.

Mr. Seymour: No, Sir, certainly not. He would pledge himself to vote against any measure of any material importance, appropriating money, until all matters pertaining to an ample and satisfactory settlement of the revenue are arranged. But such a resolution, in its present shape, would pledge the House to a course that it might not see fit to follow. Therefore, he should oppose it.

Mr. Downing thought the resolution premature and concurred with Mr. Seymour in his views. He moved to lay the resolution on the table. The motion was put and lost; when

Mr. Seymour offered a substitute, to the effect that the Committee on Finance be instructed to bring in a bill regulating the revenue of the State of North Carolina as early a day as possible.

Mr. Sinclair made a point of order, that this was substantially the same thing as the amendments of the gentleman from Mitchell, (Mr. Bowman), which was defeated; but the Chair did not sustain the point.

After considerable discussion, J. H. Harris, of Wake, colored, moved to postpone the whole matter until to-morrow week. Carried.

A message was received from the Governor, transmitting the report of the Superintendent of Public Works, for the report was, on motion of Mr. French, referred to be printed.

The Chair again called attention to the fact that printed copies of the reports of the various officers, ordered over a week ago, had not yet been received.

Mr. Seymour's resolution, reinstating the Supreme Court in their old rooms, and instructing the Committee on Public Buildings to find offices for the Superintendent of Education and the Auditor, was next taken up. This created quite a lively debate.

Mr. French moved to refer the matter to the Committee on Public Buildings.

Mr. Argo said that, with all due deference to the Committee, he thought they had acted without authority in the matter. The Court had been established in the rooms alluded to by a special act of the General Assembly, some years ago, and, before they could be legally removed, that act must be repealed in the manner prescribed in the Constitution.

Mr. Seymour moved to amend the motion to refer, by instructing the Committee to make a report by Saturday next.

Mr. French accepted the amendment, and the motion was put and adopted.

The House then adjourned to the usual hour, to-morrow morning.

TUESDAY, NOV. 24, 1868.

The Senate was called to order at 11 o'clock.

Prayer by the Rev. Henry Epps, colored, from Halifax.

A memorial was presented, signed by prominent members of the bar, recommending an amendment to the Code of Civil Procedure; which was referred to the Committee on the Judiciary.

BILLS, &c.

By Mr. Welker: A bill to amend the existing law relative to the Public Roads. Referred to the Committee on Propositions and Grievances.

By Mr. Robbins: A bill to extend the time within which widows may dissent from their husbands' wills. Referred to the Committee on the Judiciary.

By Mr. Etheridge: A bill to protect certain citizens of North Carolina, who rented lands of the United States Treasury Agent, during the late war. Referred to the Committee on Propositions and Grievances.

By Mr. Beaman: A bill empowering Deputy Clerks to act as Probate Judges. Referred to the Committee on the Judiciary.

By Mr. Respass: A resolution proposing to raise a Joint Committee to take into consideration the merits of the Mendenhall Hand Loom, and ascertain if it would not be useful in the Penitentiary, Work House, &c.

Mr. Barrow moved to amend, by including the Automatic Washing Machine; which was adopted.

Mr. Love moved to postpone the further consideration of the resolution until the 4th of July next; when Mr. Respass withdrew the resolution.

By Mr. Winslow: A resolution to pay Mr. A. C. Avery per diem and mileage up to the time that his seat was declared vacant.

The question recurring on the resolution, on motion of Mr. Blythe the yeas and nays were called, and the resolution was adopted by the following vote: Yeas 38, Nays 5.

Messrs. Bellamy, Burns, Blythe, Moore, of Carteret, and Smith voted in the negative.

Mr. Shoffner introduced a resolution, proposing to raise a Committee on mileage, before whom each member shall be examined, on oath, in reference to the number of miles he was compelled to travel, coming and returning home, by the usual route, when he shall receive a certificate, with the amount due thereon for mileage, from the Chairman of the Committee.

Mr. Cook desired to know the Senator's ground for presenting such a resolution. He thought it a reflection on the Clerk and the President of the body.

Mr. Shoffner said he had received information from different sources, that certain members of the General Assembly had drawn mileage—some of them for 700, and others for 1,500 miles. He introduced the resolution in good faith; if there was anything wrong, he desired to ferret it out. When whipping-posts were in vogue he did not object to them, because he knew they were not intended for him; and he was surprised to see Senators oppose a measure that could not do any honest man any harm.

On motion of Mr. Jones, of Wake that portion of the resolution, requiring members to take oath before the Committee, was stricken out, and the resolution passed unanimously.

The President designated Messrs. Shoffner, Graham and Sweet as the Committee.

On motion, the Senate adjourned until to-morrow, 11 o'clock.

HOUSE OF REPRESENTATIVES.

TUESDAY, NOV. 24, 1868.

House called to order at 10 o'clock.

Prayer by the Rev. Mr. Shaver, of the House.

REPORTS OF COMMITTEES.

Mr. Seymour, from the Committee on the Judiciary, reported back House Bill No. 20, introduced by Mr. Malone, in relation to obtaining license to practice law, and recommended its adoption. Lies over.

Mr. French, from the Committee on Counties and townships, reported up the bill authorizing the Commissioners of New Hanover to issue bonds in the amount of \$7,000 for each year, to be authorized, Lies over.

RESOLUTIONS AND BILLS.

By Mr. Wilcox: A resolution, directing the House to pay the disbursements of the Auditor, for the year 1868, out of the Treasury.

By Mr. French: A resolution, directing the House to pay the disbursements of the Auditor, for the year 1868, out of the Treasury.

By the same: A bill to increase the rate of interest in the State, from 6 to 8 per cent, on all contracts payable in money, &c., where interest is allowed, for such time as interest may accrue. Provided, that