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Laws of North-Carolina.

Passed by the General Assembly, 1815.

(Roanoke Navigation Law concluded.)

III. *Be it further enacted,* That the President and Directors and their successors or a majority of them assembled, shall have power and authority to agree with any person or persons on behalf of the company to open and improve the navigation of Roanoke river from its source to its mouth, so far as the same lies within this state: and also to open and improve the navigation of all streams in this state running into the said river, and to make such improvements by canals, locks or sluices from place to place, and from time to time, upon such terms as they shall think fit: and out of the said capital and money arising from tolls, pay for making and repairing all works necessary for the said navigation, and also to appoint a Treasurer not one of their own body, but yet a proprietor, clerk, toll gatherers and such officers, managers and servants as they shall think requisite, and also to agree for their wages, settle and pass their accounts, and at their pleasure remove all or any of them and appoint others in their place, and also to establish rules of proceeding, and generally to transact all the business of the company in the intervals between the meetings of the same; and any general meeting of the proprietors may allow the President and Directors such sum of money as the said general meeting may judge a reasonable compensation for their trouble. *Provided always,* that the Treasurer shall give bond and security as the President and Directors or a majority of them shall direct, for the true and faithful discharge of the trust reposed in him: and that the allowance to be made to him shall not exceed three dollars in the hundred for the disbursements by him made, and that no officer of the said company shall have a vote in the settlement or passing his own accounts.

IV. *Be it further enacted,* That the fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, seventeenth, eighteenth and nineteenth sections of an act passed in the year one thousand eight hundred and twelve, entitled "an act for improving the navigation of Roanoke river from the town of Halifax to the place where the Virginia line intersects the same," shall be and the same are hereby declared to be revived and re-enacted for the benefit of the said company and shall constitute and form part of their charter.

V. *Be it further enacted,* That payments for shares subscribed for in behalf of the State shall be made by the Treasurer of the State: and the state shall stand upon the same footing with other subscribers as to the payments to be made for shares. But no payment shall be made by the state until the end of thirty days after the first general meeting of stock holders at Halifax as aforesaid.

VI. *Be it further enacted,* That the Treasurer of this state shall represent and vote on behalf of the state, in all general meetings of the stock holders: and in case of sickness or other cause which may prevent his personal attendance, he may appoint a proxy as in the case of individual subscribers.

VII. *Be it further enacted,* That the President and Directors, of the said company be and they are hereby authorized to make or construct a turnpike road around the falls of the Roanoke river near the town of Halifax, if they shall deem the same to be advisable, until the navigation of the said river can be improved at the said falls by means of canals, locks and sluices, and to ask and receive the same tolls for commodities transported around the said falls along the said turnpike road as they would be entitled to, were the navigation improved for the transportation thereof in boats, and they are hereby authorized whenever the same shall be deemed advisable by a majority of the stock holders, out of the tolls which shall be received to construct one or more toll bridges across the river Roanoke, or any of the streams which run into the said river.

VIII. *Be it further enacted,* That the rates of toll prescribed by the eighth section of the act aforesaid, passed in the year one thousand eight hundred and twelve, may be altered from time to time by the stock holders or a majority of them in a general meeting, and other tolls established at different places on the Roanoke river and the waters thereof, so that the profits arising from the whole of the said tolls shall not in any one year exceed fifteen per centum upon the capital stock aforesaid after payment of the sums allowed annually to the officers of the said company, expenses incurred for repairs and other incidental charges.

IX. *And be it further enacted,* That for the purpose of enabling the Treasurer of this state to advance from time to time such sums of money as shall be required under this act, he is hereby authorized and directed to make a loan or loans on behalf of the state from the banks of Newbern and Cape-Fear, for the sum of twenty-five thousand dollars, upon the terms mentioned in the amended charter granted to the said banks at the last session of the General Assembly.

X. *And be it further enacted,* That the several banks in this state and all other bodies politic and corporate shall be and they are hereby authorized to subscribe for shares in the said company, and to hold and enjoy the same in the same way with other subscribers.

XI. *Be it further enacted,* That the stock holders or a majority of them in a general meeting, shall have power to make compensation to the present stock holders who subscribed for shares under the charter granted by the act passed in the year one thousand eight hundred and twelve as aforesaid for surveys which they have procured to be made, and for such charts of those surveys as may be in their possession.

Congress.

SPEECH

Of the Honorable WILLIAM GASTON in support of the proposition of Mr. Stanford, to expunge from the rules of the House of Representatives, the "Previous Question."

MR. CHAIRMAN—The proposition which has been made by my worthy friend and colleague (Mr. Stanford) to expunge from the Rules of this House, what is there called "THE PREVIOUS QUESTION," brings distinctly forward for consideration a subject which has the most imperious claims on the attention of every individual of this honorable body. It vitally concerns the rights of the members of this House, and the essential interests of the people whom they represent. From the moment, sir I have been able to comprehend what, from that chair and on this floor, has been expounded to be "the Previous Question," I have believed it hostile to every principle of our government, inconsistent with all

notions of correct legislation, and without a precedent in the annals of any free deliberative assembly. At different periods of the last Congress I had thought of attempting to procure some amendment of this arbitrary rule: but I was prevented from prosecuting my purpose by a conviction that the party feelings which had grown out of the war and which had then reached their highest state of excitement, forbade all hope of that deliberate consideration which was indispensable to a correct decision. The present Congress I have flattered myself afforded a fit opportunity for a revision of this Rule. With the return of peace to our land had returned also a spirit of mutual forbearance between the political parties of the House. Now it might be practicable to discuss and decide a great question upon its intrinsic merits, and not simply with a view to its influence on the interests or purposes of faction. Indulging this hope, it was my fixed determination not to permit the present session to pass away without an effort to rescue my own rights and

the rights of those whom I represent, from the further oppression of this instrument of tyranny. I have been anticipated by my colleague, and I rejoice that I have been thus anticipated. From none could the call upon this honorable House to emancipate itself from the thralldom of "the Previous Question," proceed with more authority & propriety than from its oldest surviving son,—from him who has witnessed the growth of this Rule from its first intrusion here: it is present all controlling domination. And sir, I rejoice equally at the opposition which the motion of my colleague has encountered. If this hideous Rule could have been vindicated, we should have received that vindication from the gentleman who has just resigned his seat, (Mr. Clay). If his ingenuity and zeal combined, could form for the Previous Question, no other defence than that which we have heard, the Previous Question cannot be defended. If beneath his shield it finds so slight a shelter, it must fall a victim to the just, though long delayed vengeance of awakened and indignant freedom.—If Hector cannot protect his Troy, the doom of Troy is fixed by fate.

It is indispensable, before we proceed further in the consideration of this subject, that we should perfectly understand what is our Previous Question.—Gentlemen may incautiously suppose that it is the same with what has been called the Previous Question elsewhere. This would be a most fatal mistake. Our Previous Question is altogether "*sui generis*" the only one of its kind.—And to know it we must consider not merely what is written of it in our Code, but what it has been rendered by exposition and construction.

Our Previous Question "can only be admitted when demanded by a majority of the members present."—It is a question "whether the question under debate shall now be put." On the Previous Question "there shall be no debate."—Until it is decided, it shall preclude all amendment and debate of the main question."—It is decided *negatively*, viz: that the main question shall not now be put, the main question is of course superceded—but if it be decided *affirmatively*, that the main question shall now be put, the main question is to be put *instantaneously*, and no member can be allowed to *amend or discuss* it.—The Previous Question is entitled to precedence over motions to amend, commit, or postpone the Main Question, and therefore when admitted puts these entirely aside. This according to the latest improvement, is now our rule of the Previous Question—and certainly, in your patent office there is no model of a machine better fitted for its purposes than this instrument for the ends of tyranny. It is a power vested in the Majority to forbid at their sovereign will and pleasure, every member, not of that majority, from making known either his own sentiments, or the wishes or complaints of his constituents, in relation to any subject under consideration, or from attempting to amend what is proposed as a law for the government of the whole nation.

It is a fundamental principal of civil liberty, that no citizen shall be affected in his rights without an opportunity of being heard in support of them. Our Constitution provides "that no citizen shall be deprived of life, liberty or property, without due process of law." Every freeman is recognized by our Constitution as possessing also the right, either by himself, or peaceably assembled with others, to petition the government for a redress of grievances. The peculiar duties of the representatives of freemen delegated with authority to bind their constituents by law, constitute these representatives the agents of the people, to make known their grievances, their wants and their wishes, that thus by mutual and free intercommunication, rules of action may be framed fitted "to promote the general welfare." To refuse to receive the petition of the poorest and meanest member of society, alledging a grievance, and applying to the competent authority for redress, is an act of tyranny prohibited by the constitution.—To impair, by a judicial sentence, any one of his rights, or restrain him in the exercise of his freedom—to touch either his purse or his person, until after regular process to apprise him of the charge brought against him, and a full hearing of any defence he may urge by himself or his counsel, is confessedly iniquitous and unconstitutional. Yet by this detested Rule, he, his neighbors, the whole community may be mulcted with taxes to an indefinite amount and subjected to obligatory rules of action, involving consequences fatal to liberty, property & life, & their recognised agents, their constitutional counsel, their representatives, not suffered to alledge a grievance or offer a defence! No individual can be condemned unheard—no individual can be refused a hearing of his petition. But thousands petitioning, through their representatives, may be commanded into silence, and a whole country sentenced with-

out a trial. The people are to be allowed representatives in the great national council, who are forbidden to make known their wants—they are indulged with agents who are refused a hearing!

Sir, such absurdities will not bear examination. They can not be tolerated by thinking and dispassionate men.—'Tis vain to alledge, in the language of the Speaker, that as the House is permitted by the Constitution "to determine the rules of its proceeding," it has a perfect right to forbid discussion, when, and as it pleases. It cannot (rightfully cannot) so regulate its proceedings as to annihilate the Constitutional franchise, either of a member or his constituents. They have a right to be heard before their money is voted or their liberty restrained, and he is their delegated agent. The whole Congress can not, by law, deprive them of their constitutional franchise, to petition for redress of grievances; and this House is not competent to close the mouth, through which the petitioners speak. Under the pretence of determining the rules of its proceedings the House has no more authority to deny to any portion of the people the fair agency of their representatives, than a Court of Justice under a plea of preserving decorum, to forbid a criminal the assistance of counsel. The power in either case is given for the preservation and more effectual enjoyment of the rights of which it is the guardian. It may regulate, but it cannot destroy them. It may prevent their abuse, but it can not forbid their exercise. The court is not obliged to hear counsel as often as they may wish to speak, nor to tolerate impertinence or contempt. The House may not allow debate on a motion for adjournment, or a question whether language be indecorous.—But if either forbid the duly constituted agent from performing his regular and proper functions, it is then usurpation, not right—it is abuse of power, not regulation. The privilege of the representative to declare the will, to explain the views, to make known the grievances and to advance the interests of his constituents, was so precious, in the estimation of the authors of our Constitution, that they have secured to him an irresponsibility elsewhere, for whatever may be uttered by him in this House.—For any speech or debate in either house, they (the Senators and Representatives) shall not be questioned in any other place." The liberty of speech is fenced round with a bulwark which renders it secure from external injury.—Here is its citadel—its impregnable fortress. Yet here, even here, it is to be strangled by the bow-string of the Previous Question.—In vain may its enemies assail it from without; but within, the mutes of despotism can murder it with impunity!

The existence of this arbitrary rule, is incompatible with the independence which belongs to the character of a Representative. Called by the voice of a great and free people, to the high, and (I had almost said sacred) office of making laws for their government, we should all of us feel that our functions, and the privileges essential to their discharge, are delegations of sovereignty, not the revocable precarious grants of a courteous majority of our own body;—legislating for freemen, we should ourselves be free. But what pretensions can he advance to freedom, who is indebted for the exercise of his supposed rights, to the grace and favor of his associates? Our English ancestor considered those tenures free, which were independent of an other's will. To hold by the will of an other, was the tenure of a "villain"—a slave. And has the constitutional right of a representative of the people, in the freest of all free countries, become nothing more than a species of privileged villainage; of splendid servitude? Instead of the Legislator being independent of all, but God and his country, in the exercise of his functions, is he to receive as a favor the permission of his fellows to take a part in legislation? The degradation is not the less, because those on whom he depends are equally degraded with himself. Each may be regarded as a slave, in an association of slaves, of which the majority are tyrants. Can it be, that to such a body, and so composed, the people of the United States designed by their great constitutional charter, to confide the mighty trust "of securing the blessings of liberty to themselves, and their posterity?" Can it be that they should select as guardians of their rights, those who should have no right to assert them?—That never can be called a "right" which owes its existence to favor.

This rule of the Previous Question, instead of being sanctioned by the constitutional authority, which the House possesses of making rules to govern its proceedings, is at variance with the very object, for the attainment of which, this power was delegated. The great purpose of rules in every community, is to protect the weak against the tyranny of the strong. The end of regulations in a society where a majority governs, is to limit the power of the