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No. 870.

Legislature of North-Carolina.

HOUSE OF COMMONS.

Friday, Nov. 20.

Mr. Stone presented the following Resolution: Resolved, That a joint committee be appointed to bring in a bill making provision for the appointment of Electors of President and Vice-President of the United States on the part of this State by the people of the State, each voter giving his vote for the whole number of Electors to which the State may be entitled.—Ordered to lie for consideration.

Evening sitting, 7 o'clock. The resolution of this House directing the appointment of 15 Electors was returned from the Senate amended so as to fix the time of balloting on Saturday.—Agreed to.

Saturday, Nov. 21.

A joint committee consisting of Messrs. Slade & Atkinson of the Senate and Messrs. Stone and Jas. Seawell of this House, was appointed to superintend the balloting for Electors of President and Vice-President of the United States. [The result of this election will be found in another part of this paper.]

Mr. D. Cameron introduced a Resolution to authorize the Governor to draw on the Public Treasury for money to defray the expense of dispatching messengers to convene the Electors.—Read & sent to the Senate.

On motion of Mr. Woodson Daniel, Resolved, That the committee of Propositions & Grievances be instructed to enquire whether any, and if any, what provision ought to be made by law for the alleviation of the effects of the restrictive state of commerce on our citizens.

Wm. M. Sued was this day elected Engraving Clerk.

The following Committees were appointed, Privileges and Elections.—Messrs. Hoyle, Foster, Legrand, Massey, Lyndon, L. Vanhook, Hawkins, Woodieff, Coffin, Garrett, Cox, Latham, Frink, Humphrey, J. A. Cameron, and Stuart.

Military Land Warrants.—Messrs. McMillan, Slade, Graham, and Holmes of the Senate; and Messrs. W. R. Johnston, Poiter, Wm. Johnson, Joyner, El. Jones, T. D. King, S. King and Owen.

Divorce and Adultery.—Messrs. Raybourn, Parker, Person, Gaster, Jones, Fuller, Hoskins and Edmunds of the Senate; and Messrs. Greenlee, Calloway, Horn, Harris, Rainey, Long, Flowers, Moore, Hulgins, D. Sawyer, Saepard, Tillman, Wm. Jones, Wright, Haddock, & Leak of this House.

On motion of Mr. J. J. Daniel, Resolved, That a special committee be appointed to enquire whether any, and if any, what alterations are necessary in the laws for the relief of insolvent debtors.—The committee consists of Messrs. J. J. Daniel, Murfree and Atlas Jones.

Monday, November 23.

Mr. Harris presented a petition from a committee appointed by the citizens of the county of Mecklenburg, praying for the passage of a law to suspend the operation of Executions for a limited time.—Referred to the committee of Propositions and Grievances.

On motion of Mr. Roberts, Resolved, That the members representing the counties of New-Haven, Brunswick, Onslow, Carteret, Craven, and Hyde be instructed to enquire into the expediency of prohibiting by law slaves & persons of colour from acting as jurors.

Mr. J. J. Daniel presented a bill to repeal the 1st section of the Act of 1806, "to exclude from the benefit of Clergy persons robbing houses in the day time."—Read and sent to the Senate.

The two houses agreed to ballot for a Governor on Wednesday next, William Hawkins, Esq. being in nomination.

Tuesday, November 24.

Mr. W. W. Jones presented a bill to subject equitable interests in real and personal estates to execution. Ordered to be printed.

Mr. Wm. Johnson presented a bill to prevent the unnecessary attendance of witnesses in the courts of justice in this state. Ordered to be printed.

Mr. D. Cameron presented a bill concerning the Supreme Court [Authorising the Judges to hold the Court in the State-House, and requiring the Clerk to keep his papers in the Secretary's office.]

The House concurred with the report of the committee of Privileges and Elections in favour of Geo. Boyd, member from Beaufort.

Mr. Henry Seawell presented the following communication from the Adjutant General:

To the Honorable the General Assembly of the State of North-Carolina.

GENTLEMEN, I have the honour herewith to lay before you a General Return of the Militia of North-Carolina for the present year, with a Roster of the General and Field Officers of the same.

In conformity to the requisitions of Law, I have instituted suits in the Superior Court of Wake against sixteen General and Field Officers for different delinquencies. They were set for trial at the last Spring Term, but being nearly the last on the Docket, were not reached before the Session of the Court terminated. At the last Term one of the causes was taken up. After a motion for postponement had been made by the Defendant's Counsel, the Judge expressed an opinion, that although the Militia Law had said the certificate of the Adjutant-General should be conclusive evidence, it should be admitted as prima facie evidence only; and as the certificate of the Adjutant-General in this case was grounded on the Brigade-Adjutant's report of a neglect, it was deemed best by the Attorney-General, who was Counsel for the prosecution, to submit to the motion for postponement. Another cause was then about to be taken up, which would have afforded matter for litigation on another point, when the disposition of the Judge rendered it necessary to close the Civil Docket for the Term. From this statement of a single case, the Legislature will determine whether or not it is advisable to alter the Militia Law respecting evidence. That our whole code of Militia Laws requires revision, and indeed total change, is obvious to all who have at-

deavoured to give them efficacy. But though it would in my opinion be proper that measures should now be taken for the substitution of a better code, it may perhaps be questionable whether it should at this time be put into operation. The President of the United States in his Message to Congress at the commencement of the present Session, has recommended a revision of the Militia Laws, "For the purpose of rendering them more systematic and better adapting them to emergencies of the War;" and the peculiar situation in which the Country is now placed, and the recent introduction of an improved System of Discipline, make it more probable that Congress will now revise the Militia Laws, than on former occasions when it has been attempted. If such a revision is now expected, it may be deemed better that the revised code of this State should follow rather than precede it.—But the propriety of putting the business of reform in progress is not lessened by any calculation which can be made on the probable acts of Congress; and entertaining the opinions which I had the honour to express in my communication to the General Assembly in the year 1809, that a code framed during a short session, amidst a variety of other business, can hardly be calculated on to possess the degree of perfection requisite, and under other circumstances, attainable, it becomes my duty again to suggest the propriety of appointing a Committee to prepare the plan of a code of Laws in the recess of the Legislature, to be reported to the General Assembly at the next Session, and that the Committee be composed of men of Military experience and legal learning, who should be compensated for their services with such liberality, as to afford them a sufficient inducement to bestow all the time and attention which so complex and difficult a subject requires.

If, however, the Legislature should think proper at this time to change or amend our present Laws, I would beg leave to call their attention to the enumeration of defects existing, and improvements proposed, in my two several communications to the Legislature of November 27, 1809, and of November 28, 1810.—And to these I will add the notice of one or two particulars which in my opinion involve principles of much importance.

Fines are seldom imposed with regularity for delinquencies at Company Musters by Company Court Marshals; and if imposed and collected, there is frequently a defect in the manner, or objects of appropriation. There is sometimes too little authority possessed by Company Officers over their immediate commands to make the energies of the Law against delinquents sufficiently felt; or, if possessed, not duly exercised. The Laws of New-Jersey provide against the existence of such cases, by enforcing penalties incurred at Company Musters in a Battalion Court Martial. Perhaps in the scattered population of many parts of this State, especially where the Regiments are large, a Battalion would embrace too much territory to render an attendance on its Courts sufficiently convenient, and the object would be equally well answered by having a Court for every three or four Companies to consist of the subalterns, with one or more privates from each Company, with a Field Officer or Captain to preside. In consideration of these services, and for reasons stated in the communications above referred to, the attendance of subalterns in Regimental Courts Martial should be dispensed with.

I would, in my opinion, be wise also to follow the example of New-Jersey in the mode of collecting and disposing of fines. If money collected for fines was to pass from the hands of the Battalion or Regimental Pay-masters perhaps through the Sheriff's, into the State Treasury, to be considered a separate fund and drawn out for specified purposes by warrants from Commandants of Regiments and Brigades, I feel confident that fines would be collected with more certainty, and appropriated with more propriety and economy than can reasonably be expected from an attendance to the present mode.

Since the modern improvements in discipline have been introduced into this country, and marching and evolutions have, on parades of exercise, taken the place of those useless and unmeaning manœuvres of the flock which once had an unmerited consequence attached to them, Musical Music has become of the utmost importance, and is indispensably necessary. Unfortunately almost every Regiment in this State is unprovided with such music as would contribute in any degree to regulate the march or animate the feelings of the Militia. But it is believed, that by a judicious appropriation of the Military Fund to establish Brigade Bands which should attend the several Regimental Reviews, and to provide for the instruction of Musicians in the Regiments, more would be done to excite the ardour, advance the consequence and promote the discipline of the Militia, than by any measure of coercion that could possibly be devised.

The authority for appointing Company Officers is vested in the Commandants of Regiments, but is seldom exercised by them, as appointments are made according to recommendations of the Company, or in other words, they are nearly by election. It is useless to defend the law on the principles of Military subordination intended to be preserved, when it is so universally disregarded in practice; and as the manner in which these elections are now usually conducted, is neither calculated to produce a correct expression of the sense of the company, or promote the election of those best qualified for command, it deserves consideration, whether these elections ought not to be authorized by law, and regulated in such a manner as to produce an expression of the unbiased voice of the company, after time and occasion shall have been given for due reflection and enquiry.

If my views and opinions should be so far approved as to produce an attempt to carry them, however partially, into effect, and any illustration of them, I may power to give, should be desired by any committee of your honorable body, it will be readily afforded and with the greatest willingness. More substantial aid, however, will be derived by a reference to the laws of those States which have been the most successful in improvements. I have made a collection of the militia laws of almost every state in the Union, which, as well as the books and papers of this office, are offered to the inspection of any Committee or Member of the Legislature.

I have the honor to be, Gentlemen, With perfect consideration, Your obedient Servant, CALVIN JONES, Adjutant General, Of the Militia of North-Carolina.

RALEIGH, November 23, 1812.

The report was referred to the Committee on the Governor's Message.

Wednesday, Nov. 25.

Mr. Sullivan presented a bill to amend the act of 1798, empowering the county courts to order the closing out public roads, &c.

Mr. Horn from the committee appointed to conduct the balloting for Governor of this State for the ensuing year, Reported, That William Hawkins, Esquire was duly elected.

Mr. Woodson Daniel presented a bill to repeal so much of the Act of 1794 as exempts students of the University and other students of seminaries of learning established by law, and Justices of the peace from performing military duty.

Mr. D. Cameron's resolution authorising the Governor to draw on the public Treasurer for mo-

ney to defray the expenses of sundry messengers to inform those chosen as Electors of their appointment, was taken up for its 3d reading in this house.

Mr. Stone moved its indefinite postponement, on the ground that the Executive already possessed the authority which the resolution proposed to grant. An interesting debate ensued on this question, which was decided by yeas and nays. For the indefinite postponement 43, against it 81.

The question of concurring with the resolution was then taken, and decided by yeas & nays, 75 to 47.

Thursday, Nov. 26.

Mr. P. Browne presented a bill for improving the navigation of Roanoke river.

Ordered, That the bill (submitted a few days ago by Mr Steele) to establish Courts of Equity separate and distinct from Courts of Law be referred to Messrs. D. Cameron, Stone, Steele and Browne for consideration and amendment.

Mr. Phifer presented the following Resolution,

Resolved, That a joint committee of the two Houses, consisting of eight members on the part of this House, be appointed to divide the State into Districts for the purpose of choosing Electors to vote for President and Vice-President of the U. S.

Mr. Murfree presented a bill to direct the future trial of slaves for crimes the punishment whereof shall affect their life.

CONGRESS.

DOCUMENTS

ACCOMPANYING THE PRESIDENT'S MESSAGE TO CONGRESS, ON NOV. 18, 1812.

Mr. Russell to the Secretary of State.

Washington, Nov. 16, 1812.

Sir—I have the honor to hand you herewith an account of the conversation alluded to in a postscript to my letter of the 19th of September, and which I had not sufficient time then to copy.

I have the honor to be, &c.

JONA. RUSSELL.

The hon. JAMES MONROE, Esq. &c.

Mr. Russell to the Secretary of State.

London, September 17, 1812.

Sir—On the 12th inst. I had the honor to receive your letter of the 27th of July last.—I called immediately at the Foreign Office to prepare Lord Castlereagh, by imparting to him the nature and extent of my instructions, for the communication, which it became me to make to him. His lordship was in the country, and I was obliged to write to him without previously seeing him. I however accompanied my official note (A) with a private letter (B) offering explanation, if required, and soliciting dispatch.

I waited until two o'clock, the 16th inst. without hearing from his lordship, when I was much surprised at receiving a note (C) from Mr. Hamilton, the under secretary, indefinitely postponing an official reply.

To give more precision to the transaction I instantly addressed to him an answer, (D) and a little before 5 o'clock on the same day, I received an invitation (E) from Lord Castlereagh to meet him at his house that evening at 9 o'clock.

I waited on his lordship, at the time appointed, in company with Mr. Hamilton, at a table laden with the records of American correspondence, which they appeared to have been examining.

I was courteously received, and after a conversation of a few minutes on indifferent subjects I led the way to the business on which I came, by observing that I had once more been authorised to present the olive branch and hoped it would not be again rejected.

His Lordship observed that he had desired the interview to ascertain, before he submitted my communication of the 16th instant to the Prince Regent, the form and nature of the powers under which I acted. To satisfy him at once on both these points, I put into his hands your letter of the 27th of July. I the more willingly adopted this mode of procedure as, besides the confidence which its frankness was calculated to produce, the letter itself would best define my authority and prove the moderation of my government.

His lordship read it attentively. He then commented at some length on the shape and substance of my powers. With regard to the former he observed that all my authority was contained in a letter from the secretary of state, which, as my diplomatic functions had ceased, appeared but a scanty foundation on which to place the important arrangement I had been instructed to propose.—With regard to the extent of my powers, he could not perceive that they essentially differed from those under which I had brought forward the propositions contained in my note of the 24th of August. He considered that to enter with me into the understanding, required as a preliminary to a convention for an armistice, he would be compelled to act on unequal ground, as from his situation he must necessarily pledge his government, when, from the nature of my authority, I could give no similar pledge for mine. He could not therefore, think of committing the British faith and leaving the American government free to disregard its engagements. Besides it did not appear to him that at the date of my last instructions the revocation of the orders in council, on the 23d of June had been received at Washington, and that great hopes were entertained of the favorable effect such intelligence would produce there. The question of impressment, he went on to observe, was attended with difficulties, of which neither I nor my government appeared to be aware. "Indeed" he continued "there has evidently been much misapprehension on this subject, and an erroneous belief entertained that an arrangement, in regard to it, has been nearer an accomplishment than the

facts will warrant. "Even our friends in Congress, I mean" (observing perhaps some alteration in my countenance) "those who were opposed to going to war with us, have been so confident in this mistake, that they have ascribed the failure of such an arrangement solely to the misconduct of the American government. This error probably originated with Mr. King, for being much esteemed here, and always well received by the persons then in power, he seems to have misconstrued their readiness to listen to his representations and their warm profession of a disposition to remove the complaints of America, in relation to impressment, into a supposed conviction on their part of the propriety of adopting the plan which he had proposed. But Lord St. Vincent, whom he might have thought he had brought over to his opinions, appears never for a moment to have ceased to regard all arrangement on the subject to be attended with formidable if not insurmountable obstacles. This is obvious from a letter which his lordship addressed to sir William Scott at that time." Here lord Castlereagh read a letter, contained in the records before him, in which lord St. Vincent states to sir William Scott the zeal with which Mr. King had assailed him on the subject of impressment, confesses his own perplexity and total incompetency to discover any practical project for the safe discontinuance of that practice and asks for counsel and advice—

"Thus you see," proceeded lord Castlereagh, "that the confidence of Mr. King on this point was entirely unfounded."

"The extreme difficulty, if not total impracticability of any satisfactory arrangement for the discontinuance of impressment is most clearly manifested by the result of the negotiation carried on between Messrs. Monroe and Pinkney and Lords Auckland and Holland. The doctrines of which these noblemen had been the advocates, when in opposition, bound them by all the force of consistency to do every thing under their commission for the satisfaction of America relative to impressment, which the subject would possibly admit. There were many circumstances on that occasion peculiarly propitious to an amicable arrangement on this point, had such an arrangement been at all attainable. Both parties accordingly appear to have exhausted their ingenuity in attempting to devise expedients satisfactorily to perform the office of impressment, and nothing can more conclusively demonstrate the inherent difficulty of the matter, and the utter impossibility of finding the expedient which they sought, than that all their labors, pursued on that occasion with unexampled diligence, cordiality and good faith, should have been in vain."

His lordship now turned to a letter in a volume before him addressed at the close of the negotiation by those commissioners to the American ministers, conceived in the kindest spirit of conciliation, in which they profess the most earnest desire to remove all cause of complaint on the part of America concerning impressment, and that their endeavors had hitherto been in vain.

"It" resumed his lordship, "such was the result of a negotiation entertained under circumstances so highly favorable, where the powers and the disposition of the parties were limited only by the difficulties of the subject, what reasonable expectation can be encouraged that in the actual state of things, with your circum-circled and imperfect authority, we can come to a more successful issue? I shall have to proceed in so weighty a concern with the utmost deliberation and circumspection; and it will be necessary for me to consult the great law officers of the crown. You are not aware of the great sensibility and jealousy of the people of England on this subject, and no administration could expect to remain in power that should consent to renounce the right of impressment, or to suspend the practice, without the certainty of an arrangement which should obviously be calculated most unequivocally to secure its object. Whether such an arrangement can be devised is extremely doubtful, but it is very certain that you have no sufficient powers for its accomplishment."

Such was the substance, and, in many parts the language of his Lordship's discourse. To which I replied that the main object of my powers being to effect a suspension of hostilities, their form could not be material. It was sufficient that they emanated from competent authority and were distinctly and clearly confirmed. That in requiring as a condition to an armistice a clear understanding relative to impressment and other points of controversy between the two countries, it was intended merely to lay the basis of an amicable adjustment and thereby to diminish the probability of a renewal of hostilities. To come to such an understanding, to be in itself informal, and which expressly left the details of the points which it embraced to be discussed and adjusted by commissioners to be hereafter appointed, was certainly within the instructions which I had received, and I could, of course, thus far pledge my government for its observance. I did not acknowledge the force of his objections, predicated on the inequality of our respective powers, for perceiving how the British faith would be particularly committed. The faith of both governments would be equally committed, for whatever was done under their respective authority; and although his lordship might have power to go beyond the armistice and understanding for which I was instructed, there was no necessity for doing so, and while

(For remainder see last page.)