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"Ours are the Plans of fair delightful Peace,
"Unwar'd by Party Rage to live like Brothers."

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Court of Errors and Appeals.

The Bill to establish a Court of Errors and Appeals, and to divide the Superior Courts of Law and Equity into four ridings, being on its second reading, in the Senate of this State, on Friday the 29th ult. the following Debate took place:

The bill having been read, and put on its passage,

MR. BLOUNT wished that the Gentleman who introduced this bill, or some other, would point out its utility. He saw the imperfections of our present Judicial System, and wished them remedied as much as any gentleman on that floor; but he distrusted his own judgment as to the proper remedy for them. He had his doubts whether this bill would furnish that remedy. He wished, however, for information, being friendly to the bill, if it could be shewn to be effectual.

Mr. JOHNSTON said, the want of some Court to which resort could be had in the last degree, must have been obvious to every man in this country, who had attended to the situation of our Judicial System, instead of suits being finally determined in the Courts in which they are commenced—some Court which should revise the proceedings of all other Courts; not only that our Judges may become the more circumspect in the performance of their duty; but that there should be an opportunity afforded of revising and reconsidering cases which may have been wrongfully decided.)

In cases where men are placed in independent situations, in which they are not responsible to any superior power, it sometimes happens that they become arbitrary and tyrannical in their proceedings. (This bill, if passed into a law, will operate as a check upon Judges disposed to abuse their power; and even the best of men, when placed in a situation in which there is no check upon their conduct, often become indolent and neglectful of their duty; but, when they know there is a Court established to correct their errors or misconduct, they will be more guarded in their proceedings than they are at present.

The reason which had prevented him from attempting a remedy to this evil at an earlier period was this; when I practised at the bar, said Mr. J. we had only three Judges, who were obliged to attend every Court. To have formed them into a Court of Appeal, would, therefore, have obtained no remedy for the evil, since the Court would consist of the same men whose errors or faults were to be corrected; and when I considered the extreme reluctance—perhaps a laudable reluctance—which some gentlemen have to every kind of expence, I was deterred from offering any separate establishment. The first time I found it in my power to bring forward a remedy for this grievance, was at the last session. We had then four Judges, and it appeared to me, that if the State were divided into four ridings, instead of two, the duty of the Judges would be so much lessened, that the Legislature might demand of them the additional duty of holding this new Court, without any increase of salary.

This expedient, Mr. J. said, might not be the best for curing the evil complained of; but it was the best and most practicable that has occurred to me. He had, therefore submitted it to the consideration of the house; if they disapprove it, the bill would, of course, be rejected. He should be satisfied with having done his duty in bringing it forward. If any gentleman can furnish a better remedy, he would cheerfully give place to it, as he had no particular prejudice in favour of the system he had proposed. If any objections should be made to particular parts of the bill, he would endeavour to answer them; but as he found himself somewhat indisposed from a cold, he hoped other gentlemen, in favour of the bill, would speak to its general merits.

Mr. BLOUNT confessed he distrusted his own opinion with respect to the merits of this bill; and his asking for the information which had been given, was more for the satisfaction of other gentlemen than

himself. Incapable as he acknowledged himself to be to remedy the evils of our present Judicial System, he thought he discovered a defect in the last clause of this bill, which he moved to amend by a proviso to this effect: "That the Judges respectively should ride in those districts where they have least practised, and never afterwards ride in the same district."

The SPEAKER decided the motion out of order, the bill being upon its passage.

Mr. AVERY said, that whilst the bill was reading by paragraph, he forbore to offer any amendment to it, though if it were to pass, he thought it capable of amendment; as he felt, however, an inclination to vote against the bill altogether, he had not attempted to amend it.

He rose with diffidence to speak to the merits of the bill. He was ready to acknowledge that there are great deficiencies in our present Judicial System, which he should be desirous of remedying, if it could be done in an unobjectionable manner; but in looking into this bill, he feared, if it passed, instead of its remedying the present defects, it would increase them.

It is well known, said Mr. A. that a great part of our Judicial business is done in County Courts, and he found no remedy in this bill, for any errors which might be committed in judgments given in them; whereas, at present, appeals are made from those Courts to the Superior Courts. This bill contemplates that one Judge shall preside in this Court of Errors, and that no appeal shall be made from his decision. He did not think that there was complete safety in such a regulation.

With respect to the expence of holding these Courts. No compensation was mentioned for the Judges; but they could not be expected to do the business for nothing. Suppose the four Judges were to have 1000. each Court, that would be 8000. a year. This additional expence he should not object to, if the bill held out a complete remedy for the evils complained of, but this did not appear to be the case. He knew many inconveniences would result from carrying this act into effect, particularly to citizens far removed from the seat of Government, where the Courts are proposed to be held; instead of being beneficial to such persons, it would operate as their total ruin. Taking all these things into consideration, he should be inclined to vote against the bill, though, as he had already premised, he had some suspicion of his own judgment with respect to it.

Mr. JOHNSTON observed, that if the gentleman last up expected that this bill should have been perfect in all its parts, and have remedied every inconvenience experienced under our Judicial System, he expected more than he ought to have done. We ought not to look to mankind for perfection; the works of the Almighty are only completely so.

He wished the Gentleman from Burke, instead of objecting to the bill in toto, had proposed his amendments. (The only general objection which had been stated, was, that the courts would be held at a distance from some of our citizens. It would be impossible, Mr. J. said, to establish a Court of this kind in a situation where this objection might not be made. This is an inconvenience, said he, which the inhabitants of this country will be willing to submit to, in order to have secured to them, the due execution of the laws by which they hold their liberty and property. Under our present system, said Mr. J. what is law at one place, is not law at another. The opinions of Judges vary; and the decision of one Judge is disregarded by another. But, when a Court, such as is now proposed, shall be established, which shall govern all the varying decisions which may be given in various parts of the State, some security will be had for the due administration of justice.) Much, added Mr. J. might be said on this subject; but from the difficulty I find in speaking, I shall leave it to be said by others.

Mr. IRWIN observed, it could not be told with any degree of certainty what would be the effect of

this bill, as it was an entirely new measure. The great end of laws is to obtain Justice for individuals, and therefore the administration of justice ought to be made as convenient to the citizens at large as possible. But, instead of this, the present bill proposes to remove it as far from them as the State will admit of; and takes away the relief now afforded, without substituting a better; for he could not see that this Judge of Appeal would be more likely to do justice than a Jury. When a trial has been had in a District or County Court, if the Parties have not had a full and satisfactory trial, they can obtain a new hearing, which he thought a much easier way of coming at justice, than that proposed by this bill. Not one cause in ten tried in the District Courts, would ever be brought to this Court; it would afford relief, therefore, but in few instances. Besides, it could not be expected that this business should be done for nothing; it would doubtless be attended with considerable expence, and he thought for little purpose. It might, indeed, give advantages to the rich; but it would prove oppressive to the poor. When a man, full of money, had been unsuccessful in other Courts, he might carry his cause to a Court such as is here proposed, where a poor man could not follow him. Believing as he did, therefore, that the bill, if passed, would not be productive of good, but the contrary, he should vote against it.

Mr. AVERY made some further objections to the bill, which were not distinctly heard.

Mr. JOHNSTON replied to them, observing, that he was very unfortunate with respect to that gentleman; for though they agreed in opinion on questions of general politics, yet they generally differed on subjects of detail. In answer to the gentleman from Mecklenburg (Mr. Irwin) in relation to the expence of the proposed establishment, Mr. J. said no additional expence was contemplated; and as to this establishment's proving an advantage to the rich, and the contrary to the poor man, the law, in general, he said was doubtless a great advantage to the poor man; it was made in order to protect the poor and weak against the oppressions of the opulent and strong—and this law, said he, is of the same kind.

(Mr. PHIFER said, it appeared to him, that this bill went to deny justice to the poorer class of citizens; for how could a poor man travel 300 miles to attend a Court at this place? How is he to support the expence? Every gentleman in this house, said he, receives 25s. a day, for his services, and where is the poor man to get this sum to pay his lawyer, who, he supposed, would not be satisfied with less? If some revision could be fixed in every District Court, citizens of every description would have some chance of justice being done to them.)

Mr. JOHNSTON wished to satisfy every gentleman, if he could. He allowed it would be inconvenient for some citizens to attend these Courts; but, as to having the errors complained of corrected in the District Courts, it was out of the question; it would not have the valuable effects proposed by this bill.

Mr. IRWIN wished a case to be pointed out which could not be tried in a District Court, as well as in the Court of Errors and Appeals now proposed. If this were done, the usefulness of the bill would appear more evident.

The question being put on the second reading of the bill, there appeared a majority against it. Of course, it was rejected.)

ENGAGEMENT in HOLLAND.

ENGLISH ACCOUNT.

London Gazette Extraordinary,

Downing-street, November 24.

The following dispatch has this day been received from the Duke of York, by the Right Hon. Henry Dundas:

Head-quarters, Shagen Brug, Sept. 30.

SIR, In my dispatch of the 16th inst. I acquainted you with my intention of making an attack upon the whole of the enemy's position, the moment

that the reinforcements joined. Upon the 19th, every necessary arrangement being made, the army moved forward in four principal columns.

The object of the first column was, to drive the enemy from the heights of Camper Duyn, the villages under the heights, and finally to take possession of Bergen; the second was to force the enemy's position at Walmenhuysen and Schoreldam, and to co-operate with the column under Lieut. Gen. D'Harman; and the third, to take possession of Ouds Carpsel, at the head of the Lange Dyke, a great road leading to Alkmaer.

It is necessary to observe, that the country in which we had to act presented, in every direction, the most formidable obstacles. The enemy upon their left occupied to great advantage the high sand hills, which extend from the sea in front of Petten to the town of Bergen, and was entrenched in three intermediate villages. The country over which the columns under Lieut. Generals Dundas and Sir James Pulteney had to move for the attack of the fortified posts of Walmenhuysen, Schoreldam and the Lange Dyke, is a plain, intersected every three or four hundred yards by broad deep wet ditches and canals. The bridges across the only two or three roads which led to these places were destroyed, and abatis were laid at different distances.

Lieut. Gen. D'Hermann's column commenced its attack, which was conducted with the greatest spirit and gallantry, at half past three o'clock in the morning, and by eight had succeeded in so great a degree as to be in possession of Bergen. In the wooden country which surrounds this village the principal force of the enemy was placed, and the Russian troops advancing with an intrepidity which overlooked the formidable resistance with which they were to meet, had not retained that order which was necessary to preserve the advantages they had gained; and they were, in consequence, after a most vigorous resistance, obliged to retire from Bergen, [where I am much concerned to state, Lieut. Generals D'Hermann and Tchertschekoff were made prisoners, the latter dangerously wounded,] and fell back upon Schoreldam, which village they were also forced to abandon; but which was immediately retaken by Major General Manners's brigade, notwithstanding the very heavy fire of the enemy. Here this brigade was immediately reinforced by two battalions of Russians, which had co-operated with Lieut. Gen. Dundas, in the Walmenhuysen, by Maj. Gen. D'Oyley's brigade of Guards, and by the 35th regiment under the command of his Highness Prince William. The action was renewed by these troops for a considerable time with success; but the entire want of ammunition on the part of the Russians, and the exhausted state of the whole corps engaged in that particular situation, obliged them to retire, which they did, in good order, upon Petten and the Zyper Sluys.

As soon as it was sufficiently light, the attack upon the village of Walmenhuysen, where the enemy was strongly posted with cannon, was made by Lieut. Gen. Dundas. Three battalions of Russians, who formed a separate corps, destined to co-operate from Krabbendam in this attack, commanded by Major Gen. Sedmoratcky, very gallantly stormed the village on its left flank, while at the same time it was entered on right by the 1st regiment of the Guards. The grenadier battalion of the Guards, had been previously detached to march upon Schoreldam, on the left of Lieut. General D'Hermann's column, as was the 3d regiment of Guards, and the 2d battalion of the 5th regiment, to keep up the communication with that of Lieut. Gen. Sir James Pulteney. The remainder of Lieut. Gen. Dundas's column, which after taking possession of Walmenhuysen, had been joined by the 1st battalion of the 5th regiment, marched against Schoreldam, which place they maintained, under a very heavy and galling fire, until the troops engaged on their right had retired at the conclusion of the action.

The column under Lieut. Gen. Sir James Pulteney proceed to its object of attack at the time appointed, and after overcoming the greatest difficulties and the most determined opposition, carried by storm the principal post of Ouds Carpsel at the head of the Lange Dyke; upon which occasion the 40th regiment, under the command of Col. Spenter, embraced a favorable opportunity which presented itself of highly distinguishing themselves.

This point was defended by the chief force of the Batavian army under the command of General Daendels. The circumstances, however, will ever reflect the highest credit on the General Officers and troops engaged in it; and made it necessary to withdraw Sir James Pulteney's column from the position which he had taken within a short distance of Alkmaer. The same circumstances led to the necessity of recalling the corps under Lieut. Gen. Sir Ralph Abercromby, who had proceeded without interruption to Hoorne, of which city he had taken possession, together with the garrison. The whole of the army has therefore re-occupied its former position.

The well-grounded hopes I had entertained of complete success on this occasion, and which were fully justified by the result of the three, and by the first success of the fourth attack upon the right, add to the great disappointment I must naturally feel on this occasion; but the circumstances which have occurred, I should have considered of very little general importance, had I not to lament the loss of many brave officers and soldiers, both of his Majesty's and the Russian troops, who have fallen.

The gallantry displayed by the troops engaged, the spirit with which they overcame every obstacle which nature and art opposed to them, and the cheerfulness with which they maintained the fatigues of an action which lasted without intermission from half past three o'clock in the morning until five in the afternoon, are beyond my powers to describe or extol. Their exertions fully entitle them to the admiration and gratitude of their King and country.

Having thus faithfully detailed the events of this first attack, and paid the tribute of regret due to the distinguished merit of those who fell, I have much consolation in being able to state, that the efforts which have been made, although not crowned with immediate success, so far from militating against the general object of the campaign; promise to be highly useful to our future operations. The capture of 60 officers, and upwards of 3000 men, with the destruction of 16 pieces of cannon, with large supplies of ammunition, with the interdicted nature of the country did not admit of being withdrawn, are convincing proofs that the loss of the enemy in the field has been superior to our own; and in addition to this, it is material to state, that nearly 15,000 of the allied troops had unavoidably no share in this action.

I transmit herewith returns of the killed, wounded and missing. I am, Sir, your's, &c.
FREDERICK.

P.S. Not having yet received returns of the loss of the Russian troops, I can only observe, that I understand their loss in killed, wounded, and missing amounts to near 1500 men.

Return of the killed, wounded and missing.

Total—1 Lieut. Col. 2 Captains, 2 Subalterns, 1 Staff, 2 Sergeants, 2 drummers, 345 rank and file wounded; 22 Sergeants, 5 drummers, 365 rank and file missing.

N. B. Lieut. Rowan of the Royal navy, wounded; 4 seamen killed; 7 seamen wounded.

Three hundred and fifty rank and file of the first battalions of the 25th regiment, cannot exactly be accounted for, from the nature of the action, and from the regiment being lost immediately to the Helder in charge of prisoners; but it is much feared that nearly 100 are killed, and the remainder wounded and missing.