

MINERS' & FARMERS' JOURNAL.

PRINTED AND PUBLISHED EVERY SATURDAY, BY THOMAS J. HOLTON...CHARLOTTE, MECKLENBURG COUNTY, NORTH-CAROLINA.

I WILL TEACH YOU TO PIERCE THE BOWELS OF THE EARTH AND BRING OUT FROM THE CAVERNS OF THE MOUNTAINS, METALS WHICH WILL GIVE STRENGTH TO OUR HANDS AND SUBJECT ALL NATURE TO OUR USE AND PLEASURE.—DR. JOHNSON.

VOL. III. SATURDAY, DECEMBER 22, 1832. NO. 117.

North-Carolina Legislature.

IN SENATE.

Thursday, Nov. 29.—Mr. Hoke, presented a bill concerning the removal of causes for trial. (Provides that where a cause is removed, it shall have precedence of all business in the court of the county to which it is removed.)

The bill to exempt from taxation the lands upon which Henry Humphreys, of Guilford, has erected a Cotton Factory, was read the second time, and on motion of Mr. Skinner, indefinitely postponed—Ayes 42—Noes 17.

On motion of Mr. Cowper, the Judiciary Committee were instructed to enquire into the expediency of requiring Superior Courts either to enter upon their dockets, the first day of the term, or dispense with the attendance of witnesses until the second day.

Friday, Nov. 30.—Mr. Montgomery, of Hertford, from the Committee of Propositions and Grievances, to whom was referred the petition of sundry citizens of Wilkes, on the subject, reported a bill to restore Joshua Pinion of Wilkes to credit. Read three times and ordered to be engrossed.

Mr. Hinton submitted the following Preamble and Resolutions which were adopted:

WHEREAS, it often happens, that the widows and infant children of intestates are left in possession of some property, but too inconsiderable in amount to be an inducement to any person to administer thereon, and undertake the settlement of the debts of such intestates—by reason of which, such widows and children cannot lawfully dispose of any part of such property, upon which to subsist:

Resolved, that the Committee on the Judiciary be instructed to enquire into the expediency of giving the right to such widows of filing petitions for one year's support, and have the same laid out in the same manner as if administrations had been granted on such estates.

Saturday, Dec. 1.—Mr. Moore, presented a bill to repeal an act passed in 1830, ch. 40, to prohibit the circulation in this State of Bank Notes of other States under five dollars. This bill passed its first reading.

Monday, Dec. 3.—The bill to repeal the act prohibiting the circulation within this State, of Notes of other States under five dollars, was taken up, and after discussion, passed to a third reading by a vote of 31 to 28.

On motion of Mr. Hinton,

Resolved, that the committee on Military Affairs be instructed to enquire into the expediency of passing some general law whereby Companies of Cavalry, Light Infantry, Rifle Corps, and Artillery companies may obtain the benefit of corporate powers.

Mr. Martin submitted the following Preamble and Resolution, which was adopted:

WHEREAS, many of the good people of North-Carolina entertain the opinion that the Constitution of this State is defective in some of its provisions, more especially in the present mode of representation, which instead of being on the just and equitable basis of taxation and population, is according to geographical limits, unequal in size, and greatly disproportionate in wealth and numbers—that the right of electing the Governor of the State ought to be vested in the free people thereof, and that biennial meetings of the General Assembly, subject to the call of the Governor, would enable it to discharge all its necessary duties to the country and be of great saving to the State: And whereas, many of the people of this State, likewise entertain the opinion that the Seat of Government should be removed to some place uniting more advantages than the City of Raleigh—and believing they have retained in their own hands the power of altering or amending the Constitution, and of removing the Seat of Government, without being restrained in the mode or manner in which such amendment are to be made, it is believed to be the most expedient under existing circumstances, to submit these several questions directly to the people of this State: Therefore,

Resolved, that the joint select committee on the subject of a Convention, be, and they are hereby instructed to enquire into the expediency of preparing amendments to the Constitution of this State on the several subjects herein contained, with a view to their being presented to the free people of this State, at their next August elections, for their ratification or rejection.

Mr. Montgomery, of Hertford, moved the following amendment, which was agreed to:

Resolved further, that the said committee be also instructed to enquire into the expediency of limiting the right of suffrage in the election of Members of the General Assembly to the free white men of the State.

Tuesday, Dec. 4.—Mr. Scawell, from the committee on the Judiciary, to whom was referred the resolution enquiring into the expediency of requiring Superior Courts to proceed to business on some of their dockets on the first day of their term, reported that no legislation on the subject is necessary, which was concurred in.

Mr. Montgomery, of Orange, from the committee to whom was referred the resolution instructing them to enquire into the affairs of the several Banks and the funds and Bank stock belonging to the State, made a detailed report thereon, which was laid on the table and ordered to be printed.

A joint select committee was appointed to wait upon the Governor elect, and ascertain when it will be convenient for him to qualify. They subsequently reported that he would attend for that purpose, on Thursday at 12 o'clock.

Mr. Scawell, from the Judiciary committee, to whom a resolution on the subject

was referred, reported a bill authorizing widows of persons dying intestate to file their petitions for a year's support before letters of administration are granted—which was read the first time.

The bill to repeal the act to prohibit the circulation of notes under \$5 of other States, passed its third reading and was ordered to be engrossed.

The engrossed bill declaratory of the law now in force, giving to County Courts the power to alter and fix separate places of election, &c. was ordered to be enrolled.

Wednesday, Dec. 6.—Mr. Hinton presented a bill to secure a Homestead freehold to every citizen owning lands in this State. This bill passed and was ordered to be printed.

Mr. Hinton presented the following Preamble and Resolution, which were adopted.

WHEREAS, many of the good people of the State regard that provision in the 32d section of our State Constitution, which requires as a test of eligibility to office, the belief of the truth of the Protestant Religion, as too intolerant for the present enlightened state of Society—as no longer necessary to guard against imaginary danger, and as operating as a conscientious barrier to any participation in the Offices of the State, of respectable denomination of Christians residing among us, possessing ability and moral worth, well calculated to adorn and benefit the State:

Be it therefore Resolved, that the Committee on the subject of a Convention be instructed, if they conclude to recommend any alterations in the Constitution, to consider the expediency of expunging therefrom the aforesaid provision.

HOUSE OF COMMONS.

Thursday, Nov. 29.—Bills presented.—

By Mr. S. T. Sawyer, to alter and amend the criminal laws of this State. (Provides that the Jury instead of the Court, shall adjudge the degree of punishment, except in capital cases.) By Mr. Courts, a bill vesting in the County Courts the power of establishing additional places of public sale. By Mr. Cuthbertson, a bill to prevent disputes in consequence of a late survey of the line between Anson and Mecklenburg counties. These bills passed their first reading.

The Bill to vest the right of electing the Clerks of the County and Superior Courts, within the several counties of this State, in the free white men thereof was read the second time. Several amendments were proposed, the most material of which was by Mr. McLeod to extend the provision to Constables. This motion was lost 108 to 21. Mr. Outlaw moved that the bill be postponed indefinitely, which was negatively 92 to 34.

The bill was then put upon its passage, and on the question shall the bill pass its second reading it was determined in the affirmative as follows:—Yeas, 94, Nays, 38.

Friday, Nov. 30.—Bills presented.—By Mr. Murray, a bill to repeal in part an act passed in 1828, amendatory of the law respecting the collection of debts from the estates of deceased persons, and the law in relation to the levying of executions issued by Justices of the Peace. By Mr. Bragg, a bill to compel Executors, Administrators and Guardians to make due returns of inventories and accounts, under certain penalties. These bills were read the first time.

Saturday, Dec. 1.—Mr. Abernathy presented a bill to procure a more perfect administration of justice in certain cases.—This bill was read the first time.

The Public Treasurer transmitted a statement of the Affairs of the Bank of Cape-Fear and the State Bank. Ordered to be printed.

The bill to vest the right of electing Clerks of the County and Superior Courts within the several counties in this State, in the free white men thereof, was taken up and amended in committee of the whole, and subsequently passed to a third reading by a vote of 93 to 30, and sent to the Senate for concurrence.

Monday, Dec. 3.—Bills presented.—By Mr. Barringer, a bill providing compensation for jurors in the county of Calmarus.—By Mr. Hart, to alter the time of electing and renewing the bonds of certain officers in the county of Mecklenburg. By Mr. Doherty, to extend the provisions of an act passed in 1830, to prevent slaves from attending muster or election grounds on the day of muster or election, in the counties of New-Hanover, Sampson, &c. These bills were read the first time.

Mr. Mangum, from the select committee, to whom was referred the bill for the erection of a new county in the West, made a detailed Report thereon, which was read and ordered to be printed; and the bill was made the order of the day for Friday.

Mr. Monk introduced the following Resolutions, which were ordered to be printed and referred to a select Committee.

WHEREAS, The Union of the States of the Confederacy ought to be a subject near and dear to every American bosom: And, whereas, many parts of the present Constitution of the U. States are susceptible of different constructions, viz: the right of the General Government to make works of Internal Improvement, within the several States the right to erect a Bank; the right to appropriate money for works of Internal Improvement; the right to dispose of the public lands or common domain; the right of laying duties and imposts

on Foreign imports, having a tendency to the protection of Domestic Manufactures: And, Whereas, Congress have passed laws, believing them to be in conformity with the true spirit and meaning of the Constitution, which threaten to sever the bonds which unite us together: And, whereas, many of the good citizens of this State do believe and entertain the opinion that there is no tribunal which can amicably and satisfactorily decide and adjust the foregoing contested articles, but by recurring to first principles;

Therefore, Resolved, By the General Assembly of the State of North-Carolina, that our Senators in Congress be instructed and our Representatives be requested to use their best endeavors to call a General Convention of the States of this Confederacy, to take into consideration all articles in the present Constitution of the United States susceptible of misconstruction, and give such an interpretation of the same, as will save the Union from anarchy.

And be it further enacted, That the Governor of this State be, and he is hereby requested, to forward a copy of these Resolutions to the President of the United States, to the Executive of each State, and to each of our Senators and Representatives in Congress.

Mr. Daniel submitted the following Resolutions, which were read, ordered to be printed and referred to the Committee on the foregoing Resolutions:

Resolved, That in opinion of this Legislature, the laws enacted by Congress for the protection of Domestic Manufactures, are unconstitutional and unjust, as well as in reference to the different classes of Society, as to the different sections of the Union.

Resolved, That the said laws have tended to weaken the Union of these States, by impairing the confidence of a large portion of the Southern people in the justice of the General Government, and that the permanent establishment of those laws is incompatible with the integrity of the Union.

Resolved, That although we witness with painful anxiety, the opposition made by the friends of Protection to the slight relief which the act of Congress, of the 14th of July 1832, affords to the South, we have not yet lost all confidence in the justice of the General Government, and will not therefore, yet sanction any measures tending to the dismemberment of the Union.

Resolved, That while we sympathize with the people of South Carolina, we do not approve of their doctrine of Nullification, believing it to be erroneous in theory, and calculated to put in jeopardy the civil and political liberty we enjoy.

Resolved, That the Governor of the State be requested to transmit a copy of these Resolutions to the President of the United States, and to the Executive of each of the States.

On motion of Mr. McLaurin,

Resolved, That the Committee on private Bills be instructed to enquire into the expediency of vesting the power in the County Courts, a majority of the acting Justices being present, to authorize the erection of Gates across the public roads in their respective counties.

Tuesday, Dec. 4.—Mr. O'Brien, from the majority of the Committee on Privileges and Elections, to whom were referred the petition of Richard H. Alexander contesting the seat of Burton Craige, the sitting member from the borough of Salisbury made a detailed Report, concluding with a Resolution that the sitting member be allowed to retain his seat. Mr. Davidson, from the minority of the Committee, made a counter report in favor of Mr. Alexander. On motion of Mr. Poindexter, Mr. Alexander was permitted to be heard at the bar of the House. He accordingly addressed the House at some length, and was replied to by Mr. Craige, to whom Mr. A. made a rejoinder.

Before any question was taken, Mr. Daniel moved that the House adjourn, which was carried.

Wednesday, Dec. 5.—Mr. Hart presented a bill to amend the Militia laws respecting cavalry; passed its first reading, and referred to the committee on Military affairs.

On motion of Mr. Clayton, the committee on Education were instructed to enquire into the expediency of establishing Free Schools in the different counties in this State, and to report by bill or otherwise.

On motion of Mr. Whitaker,

Resolved, That a message be sent to the Senate proposing to raise a joint select committee, whose duty it shall be to enquire into the number and condition of the Cherokee Indians who are now living in this State—the nature of their laws, and the expediency of extending the laws of this State as far as our chartered limits extend—and that they report by bill or otherwise.

On Wednesday the House of Commons sat very late on the contested election from the town of Salisbury. The House ultimately decided by a vote of 75 to 32, that Burton Craige, the sitting member, is entitled to his seat. Various amendments were offered, but without success, to the Resolution reported by the majority of the Committee, one of which was a proposition to declare the election invalid, and to issue a writ for a new Election. Mr. Craige's right to retain his seat was advocated by himself and Mr. O'Brien, and Mr. Alexander's claim was supported by himself, Mr. Pearson, Mr. Poindexter and Mr. Eccles. Several other gentlemen spoke on incidental questions.—*Raleigh Register.*

The new Cotton Factory at Athens is actively progressing; it will probably be in operation in three or four months. A factory of the same number of spindles (2500) is about to be established at Seull Shoals. Another, we understand to contain 1500 spindles, is to be built at Columbus.

Savannah Georgian.

PROCLAMATION.

BY ANDREW JACKSON,
President of the United States.

WHEREAS a Convention assembled in the State of South-Carolina have passed an Ordinance, by which they declare "That the several acts of the Congress of the United States, purporting to be laws for the imposing of duties and imposts on the importation of foreign commodities, and now having actual operation and effect within the United States, and more especially" two acts, for the same purposes, passed on the 29th of May, 1828, and on the 14th of July, 1832, "are unauthorized by the Constitution of the United States, and violate the true meaning and intent thereof, and are null and void, and no law," nor binding on the citizens of that State or its officers: and by the said Ordinance it is further declared to be unlawful for any of the constituted authorities of the State, or of the United States, to enforce the payment of the duties imposed by the said acts within the same State, and that it is the duty of the Legislature to pass such laws as may be necessary to give full effect to the said Ordinance:

And whereas, by the said Ordinance it is further ordained, that, in no case of law or equity, decided in the courts of said State, wherein shall be drawn in question the validity of the said Ordinance, or of the acts of the Legislature that may be passed to give it effect, or of the said laws of the United States, no appeal shall be allowed to the Supreme Court of the United States, nor shall any copy of the record be permitted or allowed for that purpose; and that any person attempting to take such appeal shall be punished as for a contempt of court:

And, finally, the said Ordinance declares that the people of South-Carolina will maintain the said Ordinance at every hazard; and that they will consider the passage of any act by Congress abolishing or closing the ports of the said State, or otherwise obstructing the free ingress or egress of vessels to and from the said ports, or any other act of the Federal Government to coerce the State, shut up her ports, destroy or harass her commerce, or to enforce the said acts otherwise than through the civil tribunals of the country, as inconsistent with the longer continuance of South-Carolina in the Union; and that the people of the said State will therefore hold themselves absolved from all further obligation to maintain or preserve their political connection with the people of the other States, and will forthwith proceed to organize a separate Government, and do all other acts and things which sovereign and independent States may of right do:

And whereas, the said Ordinance prescribes to the people of South-Carolina a course of conduct, in direct violation of their duty as citizens of the United States, contrary to the laws of their country, subversive of its constitution, and having for its object the destruction of the Union—that Union, which, coeval with our political existence, led our fathers, without any other ties to unite them than those of patriotism and a common cause, thro' a sanguinary struggle to a glorious independence—that sacred Union, hitherto inviolate, which, perfected by our happy Constitution, has brought us, by the favor of Heaven, to a state of prosperity at home, and high consideration abroad, rarely, if ever, equalled in the history of nations: To preserve this bond of our political existence from destruction, to maintain inviolate this state of national honor and prosperity, and to justify the confidence my fellow-citizens have reposed in me, I, ANDREW JACKSON, President of the United States, have thought proper to issue this PROCLAMATION, stating my views of the Constitution and laws applicable to the measures adopted by the Convention of South-Carolina, and to the reasons they have put forth to sustain them, declaring the course which duty will require me to pursue, and, appealing to the understanding and patriotism of the people, warn them of the consequences that must inevitably result from an observance of the dictates of the Convention.

Strict duty would require of me nothing more than the exercise of those powers with which I am now, or may hereafter be, invested, for preserving the peace of the Union, and for the execution of the laws. But the imposing aspect which opposition has assumed in this case, by clothing itself with State authority, and the deep interest which the people of the United States must all feel in preventing a resort to stronger measures, while there is a hope that any thing will be yielded to reasoning and remonstrance, perhaps demand, and will certainly justify a full exposition to South-Carolina and the nation, of the views I entertain of this important question, as well as a distinct enunciation of the course which my sense of duty will require me to pursue.

The Ordinance is founded, not on the indefeasible right of resisting acts which are plainly unconstitutional, and too oppressive to be endured, but on the strange position that any one State may not only declare an act of Congress void, but prohibit its execution—that they may do this consistently with the Constitution—that the true construction of that instrument permits a State to retain its place in the Union, and yet be bound by no other of its laws than those it may choose to consider as constitutional. It is true, they add, that, to justify this abrogation of a law, it must be palpably contrary to the Constitution; but it is evident, that to give the right of resisting laws of that description, coupled with the uncontrolled right to decide what laws deserve that character, is to give the power of resisting all laws. For, as by the theory there is no appeal, the reasons alleged by the State, good or bad, must prevail. If it should be said that public opinion is a sufficient check against the abuse of this power, it may be asked why it is not deemed a sufficient guard against the passage of an unconstitutional act by Congress. There is, however, a restraint in this case, which makes the assumed power of a State more indefensible, and which does not exist in the other. There are two appeals from an unconstitutional act passed by Congress—one to the Judiciary, the other to the people and the States. There is no appeal from the State decision in theory; and the practical illustration shows that the courts are closed against an application to review it, both judges and jurors being sworn to decide in its favor. But reasoning on this subject is superfluous when our social compact in express terms declares, that the laws of the United States, its Constitution, and treaties made under it, are the supreme law of the land; and, for greater caution, adds, "that the judges in every State shall be bound thereby, any thing in the Constitution or laws of any State to the contrary notwithstanding." And it may be asserted, without fear of refutation, that no Federal Government could exist without a similar provision. Look for a moment to the consequence.

If South-Carolina considers the revenue laws unconstitutional, and has a right to prevent their execution in the port of Charleston, there would be a clear constitutional objection to their collection in every other port, and no revenue could be collected

any where; for all imposts must be equal. It is no answer to repeat that an unconstitutional law is no law, so long as the question of its legality is to be decided by the State itself; for every law operating injuriously upon any local interest will be perhaps thought, and certainly represented, as unconstitutional, and, as has been shown, there is no appeal.

If this doctrine had been established at an earlier day, the Union would have been dissolved in its infancy. The excise law in Pennsylvania, the embargo and non-intercourse law in the Eastern States, the carriage tax in Virginia, were all deemed unconstitutional, and were more unequal in their operation than any of the laws now complained of; but, fortunately, none of those States discovered that they had the right now claimed by South-Carolina. The war into which we were forced, to support the dignity of the nation and the rights of our citizens, might have ended in defeat and disgrace, instead of victory and honor, if the States, who supposed it a ruinous and unconstitutional measure, had thought they possessed the right of nullifying the act by which it was declared, and denying supplies for its prosecution.—Hardly and unequally as those measures bore upon several members of the Union, to the Legislatures of none did this efficient and peaceable remedy, as it is called, suggest itself. The discovery of this important feature in our constitution was reserved to the present day. To the Statesmen of South-Carolina belongs the invention, and upon the citizens of that State will unfortunately fall the evil of reducing it to practice.

If the doctrine of a State veto upon the laws of the Union carries with it internal evidence of its impracticable absurdity, our constitutional history will also afford abundant proof that it would have been repudiated with indignation, had it been proposed to form a feature in our Government.

In our colonial state, although dependant on another power, we very early considered ourselves as connected by common interest with each other. Leagues were formed for common defence, and before the Declaration of Independence, we were known in our aggregate character as THE UNITED COLONIES OF AMERICA. That decisive and important step was taken jointly. We declared ourselves a nation by a joint, not by several acts; and when the terms of our confederation were reduced to form, it was in that of a solemn league of several States, by which they agreed that they would, collectively, form one nation for the purpose of conducting some certain domestic concerns, and all foreign relations. In the instrument forming that Union, is found an article which declares that "every State shall abide by the determinations of Congress on all questions which by that confederation should be submitted to them."

Under the confederation, then, no State could legally annul a decision of the Congress, or refuse to submit to its execution; but no provision was made to enforce these decisions. Congress made requisitions, but they were not complied with.—They had no judiciary, no means of collecting revenue.

But the defects of the confederation need not be detailed. Under its operation, we could scarcely be called a nation. We had neither property at home nor consideration abroad. This state of things could not be endured, and our present happy constitution was formed; but formed in vain, if this fatal doctrine prevails. It was formed for important objects that are announced in the preamble made in the name and authority of the people of the United States, whose delegates framed, and whose conventions approved it. The most important among these objects, that which is placed first in rank, on which all the others rest, is, "to form a more perfect Union." Now, is it possible that, even if there were no express provision giving supremacy to the constitution and laws of the United States over those of the States, it can be conceived, that an instrument made for the purpose of "forming a more perfect Union" than that of the confederation, could be so constructed by the assembled wisdom of our country as to substitute for that confederation a form of government dependant for its existence on the local interest, the party spirit of a State, or of a prevailing faction in a State? Every man of plain unsophisticated understanding, who hears the question, will give such an answer as will preserve the Union. Metaphysical subtlety, in pursuit of an impracticable theory, could alone have devised one that is calculated to destroy it.

I consider, then, the power to annul a law of the United States, assumed by one State, INCOMPATIBLE WITH THE EXISTENCE OF THE UNION, CONTRADICTED EXPRESSLY BY THE LETTER OF THE CONSTITUTION, UNAUTHORISED BY ITS SPIRIT, INCONSISTENT WITH EVERY PRINCIPLE ON WHICH IT WAS FOUNDED, AND DESTRUCTIVE OF THE GREAT OBJECT FOR WHICH IT WAS FORMED.

After this general view of the leading principle, we must examine the particular application of it which is made in the ordinance.

The preamble rests its justification on these grounds:—It assumes as a fact, that the obnoxious laws, although they purport to be laws for raising revenue, were in reality intended for the protection of manufactures, which purpose it asserts to be unconstitutional;—that the operation of these laws is unequal;—that the amount raised by them is greater than is required by the wants of the Government;—and, finally, that the process are to be applied to objects unauthorized by the Constitution. These are the only causes alleged to justify an open opposition to the laws of the country, and a threat of seceding from the Union, if any attempt should be made to enforce them. The first virtually acknowledges that the law in question was passed under a power expressly given by the Constitution, to lay and collect imposts; but its constitutionality is drawn in question from the motives of those who passed it. However apparent this purpose may be in the present case, nothing can be more dangerous than to admit the position that an unconstitutional purpose, entertained by the members who assent to a law enacted under a constitutional power, shall make that law void; for how is that purpose to be ascertained? Who is to make the scrutiny? How often may bad purposes be falsely imputed? In how many cases are they concealed by false professions? In how many is no declaration of motive made? Admit this doctrine, and you give to the States an uncontrolled right to decide, and every law may be annulled under this pretext. If, therefore, the absurd and dangerous doctrine should be admitted, that a State may annul an unconstitutional law, or one that it deems such, it will not apply to the present case.

The next objection is, that the laws in question operate unequally. This objection may be made with truth to every law that has been or can be passed. The wisdom of man never yet contrived a system of taxation that would operate with perfect equality. If the unequal operation of a law