

# THE LINCOLN REPUBLICAN.

"The tendency of Democracy is toward the elevation of the industrial class, the increase of their comfort, the assertion of their dignity, the establishment of their power."

BY ROBERT WILLIAMSON, JR.

LINCOLN, N. C., MARCH 10, 1841.

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## NEW TERMS OF THE LINCOLN REPUBLICAN

TERMS OF PUBLICATION. The LINCOLN REPUBLICAN is published every Wednesday at \$2 50, if paid in advance, or \$3 if payment be delayed three months.

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No paper will be discontinued but at the option of the Editor, until all arrearages are paid.

A failure to order a discontinuance, will be considered a new engagement.

TO CORRESPONDENTS. To insure prompt attention to Letters addressed to the Editor, the postage should in all cases be paid.

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THESE medicines are indicated for their name to their manifest and sensible action in purifying the springs and channels of life, and enduing them with renewed tone and vigor.

The LIFE MEDICINES recommend themselves in diseases of every form and description. Their first operation is to loosen from the coats, cover the stomach and bowels, the various impurities and crudities constantly settling around them; and to remove the hardened feces which collect in the convolutions of the smallest intestines.

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These valuable Medicines are for sale by D. & J. RAMSOUR, Lincoln, N. C.

September 2, 1840.

## Situation Wanted.

I wish to obtain a situation as a teacher of a common English School, in this or some neighboring county. I feel competent to teach the elementary principles of the English language, Natural Philosophy, Rhetoric &c. and if required, the rudiments of the Latin and Greek tongues. Address JOHN A. HUGGINS, Lincoln, N. C., Jan. 13th 1841.

## NEW GOODS.

The Subscriber has just received a large and splendid assortment of new Goods, which he purchased in Philadelphia and New York, entirely for Cash, consisting of

DRY GOODS, HARDWARE, Hats, Shoes, Bonnets, Paints, Drugs, Saddlery, Crockery, Groceries, and a very extensive assortment of PLATED SADDLERY, HARNESS MOUNTING, and COACH TRIMMINGS, which he will sell very cheap for cash, or on a short credit to punctual customers. C. C. HENDERSON, October 28, 22-61.

Blanks! Blanks!! Constable Warrants, Ca Sacs, Appearance bonds and Witness Tickets,

## PUBLIC ACTS OF THE STATE OF NORTH CAROLINA, PASSED BY THE GENERAL ASSEMBLY, COUNTIES.

### CHAPTER XII.

An Act supplemental to an Act passed by the present General Assembly, entitled "An Act to lay off and establish a County by the name of Caldwell."

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the County of Caldwell shall be, and is hereby invested with all the rights, privileges and immunities of the other Counties in this State, except as is hereafter provided.

II. Be it further enacted, That the Justices of the Peace, and Officers of the Militia, who reside within the limits of the County of Caldwell, shall continue to hold and exercise all the official powers and authorities in and for said County, that they have hitherto held and exercised in the Counties of Burke and Wilkes.

III. Be it further enacted, That the Constables now residing in the County of Caldwell, shall continue to hold their offices, and perform all duties appertaining thereto, until the first County Court, to be held for said County, under the same rules, regulations and penalties as Constables are subject to in other Counties in this State.

IV. Be it further enacted, That the Counties of Burke, Wilkes and Caldwell, shall continue to be represented in the General Assembly in the same manner as heretofore, and in the name of the Counties of Burke and Wilkes, until a future Legislature shall otherwise provide and direct; and all elections for Members of Congress, and both Houses of the General Assembly, shall be held by the Sheriffs or other Returning Officers of the Counties of Burke and Wilkes, in all the territory heretofore comprehended in the limits of their respective Counties, at the time and places, and under the same rules, regulations and restrictions, as have been appointed, or may hereafter be appointed by law, and the Certificate of said Sheriffs, or other Returning Officer, to the result of said election or elections, shall be as valid and effectual, to all intents and purposes, as if the Act laying off and establishing the County of Caldwell had never been passed.

V. Be it further enacted, That a Court of Pleas and Quarter Sessions shall be, and the same is hereby established in and for the County of Caldwell, to be held by the Justices of said County, the first Court to be held on the first Monday in March, in the year one thousand eight hundred and forty-one, and thereafter, to be held on the fourth Monday in April, July, October and January, in each and every year; Provided, that no Court shall be held on the fourth Monday in April, one thousand eight hundred and forty-one, and that the Sessions of said Court shall be held at the Store-house of George Powell, near the house of George Smith, jun. until the seat of Justice for said County shall be established, as herein provided, and that at the first Session of said Court, a majority of the Justices of the Peace being present, shall elect a Clerk, Sheriff, Coroner, Register, Entry-taker, Surveyor, Constables, and all other officers for said County, who shall enter into Bonds as required by law and shall hold and continue in said offices until successors to them are duly chosen and qualified, according to the Acts of the General Assembly in such cases made and provided.

VI. Be it further enacted, That the Court of Pleas and Quarter Sessions, established by this Act, shall possess and exercise the same power, authority and jurisdiction, as is possessed and exercised by other County Courts in this State, and shall have exclusive jurisdiction of all crimes committed within the limits of Caldwell County, of which the County Courts of other Counties in this State have jurisdiction, until a Superior Court of law is established for said County; and all suits at law, now pending in the County Courts of Burke and Wilkes, wherein the citizens of Caldwell are both plaintiffs and Defendants; and all indictments in said Courts against citizens of Caldwell County, shall be transferred to the County Court of Caldwell, in the manner now provided for transferring suits from one County to another; and all appeals from the County Court of Caldwell, shall be sent to the Superior Court of Wilkes for trial, when the plaintiffs reside in that portion of Caldwell taken from Wilkes, and to the Superior Court of Burke, when the plaintiffs reside in that portion of said County taken from Burke.

VII. Be it further enacted, That all criminal offences which may be committed in that part of Caldwell taken from Burke, which are cognizable only in the Superior Court of law, shall be, and continue under the jurisdiction of the Superior Court of Burke, and similar offences committed in that portion of said County, taken from Wilkes, shall be, and continue under the jurisdiction of the Superior

Courts of Wilkes, until a Superior Court of law shall be given to the County of Caldwell.

VIII. Be it further enacted, That all persons who may be liable to imprisonment under any process, either criminal or civil, in Caldwell County, before the completion of a Jail in said County, shall be committed to the Jail of either the County of Burke or Wilkes.

IX. Be it further enacted, That all process issued from the Superior Courts of Burke or Wilkes against the citizens of Caldwell, shall be valid without the Seal of office being affixed thereto, until a Superior Court is created for the County of Caldwell; and all process so issued, until a Sheriff shall have been elected for the County of Caldwell, shall be executed by either the Sheriff of Burke or Wilkes; and after that time, such process shall be directed to the Sheriff of Caldwell, and be executed by him.

X. Be it further enacted, That Cates Jones, Edmund Jones, William Dickson, Daniel Moore, senior, William Watts, John Blair, senior, Levi Saxton, senior, Peter Ballew, junior, and Abner Pain, are hereby appointed Commissioners to select and determine upon a site for a permanent seat of Justice for said County, who shall locate the same as near the centre of said County as practicable, and a majority of said Commissioners shall have power to act.

XI. Be it further enacted, That a majority of said Commissioners shall have power to purchase or receive by donation, for the County of Caldwell, a tract of land, consisting of not less than twenty-five acres, to be conveyed to the Chairman of the County Court of said County, and his successors in office, upon which a Town shall be laid off, and called "Lenoir," where the Court House and Jail shall be erected, and where, after the completion of the Court House, the Courts of said County shall be held, and the Clerks and Register shall keep their offices.

XII. Be it further enacted, That the County Court of Caldwell, at its first Session, shall appoint five Commissioners to lay off the lots of said Town, and after designating such as shall be retained for Public uses, shall expose after due notice, the residue to sale at Public Auction, upon a credit of one and two years, and shall take from the purchasers bonds and security for the purchase money, made payable to the Chairman of the County Court, and his successors, and upon the payment of the purchase money, the Chairman, or his successors, shall execute title therefor; which money shall be appropriated to the building of a Court House and Jail.

XIII. Be it further enacted, That nothing in this Act shall be construed as to prohibit the Sheriffs of Burke and Wilkes from collecting such monies as are due, or may become due, on any judgment before the first Court of Pleas and Quarter Sessions that shall be held for Caldwell County.

XIV. Be it further enacted, That this Act shall not be construed as to prevent the Sheriffs of Burke and Wilkes from collecting all arrears of taxes in the same manner as they could have done previous to the creation of the County of Caldwell. Provided, nevertheless, that the Sheriffs of Burke and Wilkes Counties shall not collect any taxes in the County of Caldwell, or of the citizens of said County, imposed by the County Courts of Burke and Wilkes, and which are to be collected in the year one thousand eight hundred and forty-one; but that the same may be collected upon the tax duplicates of the Clerks of Burke and Wilkes, by the Sheriff of Caldwell, and be paid over to the use of Caldwell County.

XV. Be it further enacted, That the Courts of Pleas and Quarter Sessions of Burke and Wilkes, shall have power until a Superior Court is created for Caldwell, to draw Jurors from said County as heretofore for Burke and Wilkes Superior Courts, and the Jurors so drawn shall be summoned by the Sheriff of Caldwell, and for non-attendance, shall be subject to the same penalties as are now prescribed by law.

XVI. Be it further enacted, That the Courts of Pleas and Quarter Sessions for the County of Burke, heretofore held upon the fourth Monday in July and January, shall after the first day of March next, be held upon the third Monday in July and January in each and every year; any law to the contrary notwithstanding.

XVII. And be it further enacted, That this Act shall be in force from and after its ratification.

[Ratified, the 11th day of January, 1841].

## CONGRESSIONAL.

TWENTY-SIXTH CONGRESS. SECOND SESSION. HOUSE OF REPRESENTATIVES.

Mr. Pickens, from the Committee on Foreign Affairs, made the following report, which was ordered to be printed. The Committee on Foreign Affairs, to

whom was referred the message of the President, transmitting a correspondence with the British Minister in relation to the burning of the steamboat Caroline, and the demand made for the liberation of Mr. Alexander McLeod, respectfully report:

It appears that the steamboat "Caroline" was seized and destroyed in the month of December, 1837. The committee are induced to believe that the facts of the case are as follows: The boat was owned by, and in possession of, a citizen of New York. She was cleared from the City of Buffalo, and, on the morning of the 29th of December, 1837, she left the port of Buffalo, bound for Schlosser, upon the American side of the Niagara river, and within the territory of the United States. The original intention seem to be, to run the boat between Buffalo and Schlosser, or, perhaps, from Black Rock dam to Schlosser, and should it seem profitable, it was intended to run her also to Navy Island, and touch at Grand Island and Tonawanda.

Her owner was Mr. Wells, said to be a respectable citizen of Buffalo, and it is obvious, his intention in putting up the boat was one of speculation and profit entirely. The excitement upon that portion of the frontier, at this period, had collected a great many in the neighborhood—some from curiosity—some from idleness—and others from taking an interest in the unusual and extraordinary collection of adventurous men gathered together at that time on Navy Island. Navy Island was "nominally" in the British territory.

The owner of the Caroline took advantage of these circumstances to make some money with his boat, over to Navy Island. All these facts appear from testimony regularly taken, (see H. R. Doc. No. 302, page 46 and 38, 2d Session, 25th Congress.) and the committee know of no legal evidence to contradict them. There is no proof that any arms or munitions of war were carried in the boat, except, perhaps, one small six-pounder field-piece belonging to a passenger. The principal object was to run the boat as a ferry boat from Schlosser, on the American side, to Navy Island, on the British side. It is believed that, even in war, a neutral power has the right to trade in contraband articles, subject, of course, to seizure and confiscation, if taken within the jurisdiction of either of the contending parties. What is contraband of war is not always certain. Treaty stipulations frequently include some articles, and exclude others recognised in the law of nations. Trading in contraband articles is no excuse for invading the territory and soil of a neutral and independent power, whose private citizens may choose to run the hazards of such a trade. In this instance there were no two foreign powers engaged in war but all concerned in the outbreak or excitement within the British jurisdiction, claimed to be British subjects, in resistance of the authorities of Canada, a province of the British empire. Even admitting, then, that the Caroline was engaged in contraband trade, yet it was with citizens who claimed to be subjects of the same empire with those who were styled the legitimate officers of the Province. Abstractly speaking, how was a private citizen to decide who were right and who wrong in these local disputes? And which portion of citizens of the same province must our citizens refuse to have any communication with? But the boat was merely used for one day as a ferry boat; and on the night of the day she commenced running, she was seized while moored at the wharf in Schlosser, and burnt. Several men were assassinated certainly one, who fell dead upon the dock. Now the insinuation of the British Minister, that Schlosser was "nominally" within the territory of the United States, may well be retorted, as we can with equal truth say that Navy Island was "nominally" within the "territory" of the British Government; for at the period to which we allude, the people collected there had as effectually defied Canada authorities as any portion of our people had disregarded ours. Yet British authority thought proper to pass by Navy Island, then in its "nominal" territory, and in the plenitude of its power, to cast theegis of British jurisdiction over American soil. This was truly extending over us that kind of guardianship which they had not the ability at that time to extend to a portion of their own territory, and which recommends itself to us, full as much from its assumption as from its love of right or law.

The British Minister is pleased also to call the Caroline a "piratical steamboat." The loose epithets of any one, no matter how high in place, cannot make that piracy which the law of nations does not recognize as such. Pirates are freebooters, enemies of the human race, and eminent jurists describe them as ravaging every sea and coast with no flag and no home. Piracy comes under the concurrent jurisdiction of all nations. Even in the worst point of view that it can be considered, those connected with the steamboat Caroline were but aiders and abettors of others engaged in rebellion. And the committee are totally at a loss to know upon what authority rebellion is recognised as piracy. Such confounding of terms is resting the

case upon epithets, instead of sound law or facts. But even supposing it to be a "piratical boat," as the Minister asserts it to be; yet the moment it touched our soil it fell under our sovereignty, and no power on earth could rightfully invade it.

There is no doctrine more consecrated in English history, than that every human being who touches the soil of Great Britain is immediately covered by British law. Suppose one of these vessels were cut from the banks of the Thames and burnt by Frenchmen, and British citizens were assassinated at night, and the French Minister were to avow that they acted under the orders of his Government, and that the vessel was "piratical," and the citizens murdered were outlaws—then there is not an Englishman whose heart would not beat high to avenge the wrong, and vindicate the rights of this country. The law there is the law here. And there is no international law consistent with the separate independence of nations, that sanctions the pursuits of even pirates to murder and arson over the soil and jurisdiction of one of the States of this Confederacy. No greater wrong can be done to a country than invasion of soil. If it can be done with impunity at one point, and on one occasion, it can be done at another, and the nation that submits to it, finally sinks down into drivelling imbecility. If a representation of the state of things at Schlosser, and the conduct of those who had control of the Caroline, had first been made to the proper authorities of N. Y., or of the U. S., then there would have been some show at least of respect for our sovereignty and independence, and a disposition to treat us as an equal. But in this case, as if to treat our authorities with contempt, there was no preliminary demand or representation made.

It was hoped that the outrage was perpetrated by a party in sudden heat and excitement, upon their own responsibility. But the British Minister now avows that "the act was the public act of persons obeying the constituted authorities of her Majesty's Province," and again affirms that "it was a public act of persons in her Majesty's service, obeying the orders of their superior authorities."

If this had been the first and only point of collision with Great Britain it might not have excited such interest, but there is an assumption in most of our intercourse with that great power, revolving to the pride and spirit of independence in a free people. If it be her desire to preserve peace, her true policy would be to do justice, and show that courtesy to equals which she has always demanded from others. The committee do not desire to press views on this part of the subject, particularly as a demand has been made by our Government upon the Government of Great Britain for explanation as to the outrage committed, the answer to which it is hoped will prove satisfactory.

As to the other points presented in the demand made by the British Minister for the "liberation" of Alexander McLeod, the committee believe the facts of the case to be, that the steamboat was seized and burnt as stated before, and that a citizen or citizens of New York were murdered in the affray. And there were reasons to induce a belief that McLeod was *particeps criminis*. He was at first arrested, and upon various testimony being taken, was then discharged. He was afterwards arrested a second time. Upon the evidence then presented, he was imprisoned to await his trial. There was no invasion of British territory to seize or take him. But upon his being voluntarily within our territory, he was arrested as any citizen of the United States, charged with a similar offence, might have been. We know of no law of nations that would exempt a man from arrest and imprisonment for offences charged to be committed against the "peace and dignity" of a State, because he is a subject of Great Britain, or because he committed the crime at the instigation or under the authority of British Provincial officers; much less do we know of any law that would justify the President to deliver him up without trial, to the demand and upon the assertion as to facts, of any agent of the British Government. If we had been at open war with Great Britain, and McLeod had committed the offences charged then he might have fallen under the rules and regulations of war, and been treated as a prisoner of the United States Government, and would have been subject to the laws of nations in war. But as the alleged criminal acts, in which McLeod is charged to be implicated, were committed in profound peace, it is a crime, as far as he may be concerned, solely against the "peace and dignity" of the State of New York, and her criminal jurisdiction is complete and exclusive. If the crimes committed be such as to make a man *hostis humani generis*—an outlaw—a pirate, in the legal acceptance of the term, then under the law of nations, the United States courts and tribunals would have jurisdiction. But the offence charged in this case, committed as it was in time of peace, as far as this individual was concerned, was one purely against the *lex loci*, and coming ex-

clusively within the criminal jurisdiction of the tribunals of New York.

The Minister, in his letter of the 13th December, 1840, says: "it is quite notorious that Mr. McLeod was not one of the party engaged in the destruction of the steamboat Caroline; and that the pretended charge upon which he has been imprisoned rests only upon the perjured testimony of certain Canadians, outlaws and their abettors," &c. This may perchance all be so, but it would be asking a great deal to require an American court to yield jurisdiction, and surrender up a prisoner charged with offence against the law, upon the *ipse dixit* of any man, no matter how high in authority. Whether McLeod be guilty or not guilty, is the very point upon which an American jury alone have a right to decide. Jurisdiction in State tribunals over criminal cases, and trial by a jury of the *venue*, are essential points in American jurisprudence. And it is a total misapprehension as to the nature of our system, to suppose that there is any right in the Federal Executive to arrest the verdict of the one, or thwart the jurisdiction of the other. If such a power existed, and were exercised, it would effectually overthrow, and upon a vital point, the separate sovereignty and independence of these States. The Federal Executive might be clothed with power to deliver up fugitives from justice for offences committed against a foreign State, but even then it might not be obligatory to do so, unless it were made matter of treaty stipulation. This duty and right in an Executive has generally been considered as dormant, until made binding by treaty arrangement. But when the matter is reversed, and demand is made, not to fugitives from justice for the liberation of a man charged with offences against the peace and dignity of one of our own States, then then it is, that the demand becomes preposterous in the extreme. The fact the offences were committed under the sanction of provincial authorities does not alter the case, unless we were in a state of war. In such cases as the present, the power to deliver up could not be conferred upon the Federal Executive by treaty stipulation.—It could only be conferred in those cases over which jurisdiction is clearly delegated by the Federal Constitution. Such, for instance, as treason, which is an offence against the conjoined sovereignty of the States, as defined in the Constitution.—Over all cases except those defined in the Constitution, and those coming clearly under the laws of nations, the States have exclusive jurisdiction, and the trial and punishment for offences against them, are incident to their separate sovereignty. It is not pretended in this case that there is any treaty stipulation under which the demand is made; and the Federal Executive, under our system, has no power but what is conferred by the Constitution, or by special law of Congress. In the former it is declared that "the Executive power is vested in a President of the United States," and that power is then to be pointed out and defined by special laws passed from time to time, imposing such duties as are thought proper and expedient by Congress.

Your committee deem it dangerous for the Executive to exercise any power over a subject-matter not conferred by treaty or by law; and to exercise it in any case in conflict with State jurisdiction, would be worse than dangerous; it would be usurpation.

But your committee forbear to press these points further at present, and they would not have said as much on such clear questions of international law, but that in this, the demand for liberation has been made by the accredited agent of a great power, and under circumstances of peculiar aggravation and excitement.

We have other points of difference with Great Britain, which add interest to every question that arises between us at present. Neither our Northeastern or Northwestern boundaries are yet settled with her, and the subject is not entirely free from difficulty. She has recently seized our vessels and exercised a power involving the right of search, under the pretext of suppressing the foreign slave trade, which, if persevered in, will sweep our commerce from the coast of Africa, and which is incompatible with our rights as a maritime power. She has recently, in her intercourse with us, refused indemnity and denied our rights to property, on a subject-matter vital to near one half the States of this Confederacy, and which, considering her military position at Bermuda and her growing power in the West Indies, is of the last importance to our national independence.

All these subjects make every question between us, at this peculiar juncture, of the deepest interest.

Besides this, we are both permanently destined to have, perhaps, the most extensive commerce of modern nations. Our flags float side by side, over every sea, and bay, and inlet of the known globe.

She moves steadily upon her objects with an ambition that knows no bounds.—And wherever she has had a conflict of interest she has rarely yielded to any power.

At this moment she presents to the civilized world the spectacle of the greatest