

# Western Carolinian.

It is even wise to abstain from laws, which however wise and good in themselves, have the semblance of inequality which find no response in the heart of the citizen, and which will be evaded with little remorse.

Dr. Channing.

(BY BURTON CRAIG.)

SALISBURY, ROWAN COUNTY, N. C., MONDAY JANUARY 14, 1893.

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## GENERAL ASSEMBLY

### SENATE

Thursday, Dec. 20.

The Senate proceeded to take up the engrossed bill making an appropriation and appointing commissioners for the rebuilding of the Capitol in the city of Raleigh; and the bill being read the second time, was passed—Ayes 36, Nays 27.

YEAS.—Messrs. Askew, Bailey, Bateman, Bell, Bledsoe, Bullock, Carson, Collins, Cowper, Dismouth, Faison, Harrison, Hawkins, Hinton, Hussey, Latham, Lindley, McDowell, Marshall, Matthews, Melvin, Montgomery (of H.), Montgomery (of O.), Moxe, (of G.), Moxe (of P.), Norman, Rhodes, Seawell, Simmons, Skinner, Spaight, Spencer, Vanhook, Wilder, Williams, Wilson.

NAYS.—Messrs. Allen, Allison, Brittain, Carter, Dobson, Gavin, Hall, Hogan, Hoke, Houston, Howell, Kerr, Lamb, Leak, Lilly, Martin, Massey, Moffit, Moore, Morris, Parham, Parker, Ray, Stedman, Tyson, Towner, Tyson, Wellborn.

Mr. Allen then moved that the bill be read the third time, which was agreed to. Ayes 33, Nays 30. Whereupon the bill was read the third time, passed and ordered to be enrolled. Ayes 35, Nays 28. The votes on the third reading were as on the second, with the exception of Mr. Carson, who on the last reading of the bill voted in the negative.

Friday, Dec. 21.

Mr. Askew presented a resolution to adjourn on the 5th of January, 1893, sine die, which was read and laid on the table.

On motion of Mr. Latham, it was resolved that the committee on the judiciary be instructed to inquire whether a remedy could not be devised to prevent the practice of issuing writs in the first instance, against debtors having a sufficiency of visible property.

The bill to establish the Bank of North Carolina was read the third time, amended, passed and ordered to be engrossed—Ayes 33, Nays 27.

YEAS.—Messrs. Allen, Bell, Brittain, Carter, Dismouth, Hinton, Hogan, Hoke, Hussey, Kerr, Lamb, Leak, Lilly, Levisy, Martin, Massey, Moffit, Morris, Montgomery (of O.), Parker, Rhodes, Skinner, Spencer, Stedman, Tyson, Vanhook, Wellborn, Wilder.

NAYS.—Messrs. Allison, Askew, Bailey, Bledsoe, Bullock, Carson, Collins, Faison, Hawkins, Houston, Howell, Latham, McDowell, Marshall, Matthews, Melvin, Montgomery (of H.), Moore, Moxe (of G.), Moxe (of P.), Pitt, Ray, Seawell, Simmons, Spaight, Towner, Williams, Wilson.

Saturday, Dec. 22.

On motion of Mr. Matthews, it was resolved, that the committee on Finance be instructed to inquire whether the sum of six hundred dollars, appropriated by a resolution of the last General Assembly for house rent, &c., for the use of the Governor of the State, has been expended; if so, for what, and to whom paid.

Monday, Dec. 24.

Mr. Hawkins, from the joint select committee on military affairs, to whom was referred a resolution directing the Governor to loan to a rifle corps, formed or forming in the town of Washington, rifle and accoutrements belonging to the State, sufficient to arm said company, made an unfavorable report thereon; in which report the Senate concurred.

The bill to erect out of a portion of the counties of Burke and Buncombe a separate and distinct county, by the name of Yancey, was read the first time and rejected—Ayes 27, Nays 33.

YEAS.—Messrs. Allen, Allison, Brittain, Carson, Carter, Dobson, Hogan, Hoke, Houston, Kerr, Leak, Lilly, McDowell, Martin, Massey, Moffit, Montgomery (of O.), Moore, Morris, Parham, Parker, Ray, Stedman, Towner, Tyson, Vanhook, Wellborn.

NAYS.—Messrs. Askew, Bailey, Bateman, Bell, Bledsoe, Bullock, Carson, Collins, Cowper, Dismouth, Faison, Gavin, Hall, Harrison, Hawkins, Hinton, Howell, Hussey, Lamb, Latham, Lindsay, Marshall, Matthews, Melvin, Montgomery (of H.), Moxe (of G.), Moxe (of P.), Norman, Rhodes, Simmons, Skinner, Spencer, Wilder, Williams, Wilson.

The engrossed bill concerning chari-

ties, &c. the engrossed bill to provide for the more prompt administration of justice in the counties of Burke, Buncombe, Lincoln and Rutherford, were read the third time, passed and ordered to be enrolled.

Mr. Towner, from the joint select committee to whom was referred the letter of the Governor of the State of South Carolina, to the Governor of this State, together with the accompanying documents made a report thereon, accompanied with the following resolutions:

Resolved, That the General Assembly of the State of North Carolina doth entertain, and doth unequivocally express a warm attachment to the Constitution of the United States.

Resolved, That the General Assembly doth solemnly declare a devoted attachment to the Federal Union, believing that on its continuance depend the liberty, the peace, and prosperity of these United States.

Resolved, That whatever diversity of opinion may prevail in this State as to the constitutionality of the acts of Congress imposing duties on imports; yet it is believed a large majority of the people think those acts unconstitutional; and they are all united in the sentiment, that the existing Tariff is impolitic, unjust and oppressive; and they have urged, and will continue to urge its repeal.

Resolved, That the doctrine of Nullification, avowed by the State of South Carolina, and lately promulgated in an ordinance, is revolutionary in its character, subversive of the Constitution of the United States, and leads to a dissolution of the Union.

Resolved, That our Senators in Congress be instructed, and our Representatives be requested, to use all constitutional means in their power to procure an adjustment of the existing controversy between the State of South Carolina and the General Government, and to produce a reconciliation between the contending parties.

Resolved further, That a copy of these resolutions be respectfully communicated by his Excellency the Governor of this State to his Excellency the Governor of South Carolina.

Which were read the first time and passed. On motion of Mr. Williams, they were committed to a committee of the whole House, and made the order of the day for Thursday next; and, on motion of Mr. Bell, ordered to be printed.

Monday, Dec. 20.

The Senate met according to adjournment; and, after the transaction of some unimportant business, adjourned until to-morrow.

Wednesday, Dec. 26.

Mr. Leak presented a resolution to authorize the commissioners for the rebuilding of the Capitol to sell such part of the rubbish of the former building as may be unnecessary to be used in the new building; which was read the first, second and third times, passed, and ordered to be engrossed.

Mr. Spaight presented the following preamble and resolution:

Whereas it appears from the President's message of the fourth of this month to the Congress of the United States, that the public debt will probably be extinguished early in the year of our Lord one thousand eight hundred and thirty three, and that there are now on hand, belonging to the United States, funds sufficient to pay the same; and whereas, in the said message, he recommends to Congress a reduction of the Tariff to a plain and economical system of revenue, which recommendation, we hope, will be complied with by the present Congress; but should our just and reasonable hopes be disappointed, we still have every reason to believe, from the result of the elections for members of the next Congress of the United States, that the Tariff will be reduced to a revenue system, founded upon republican principles; and whereas in the event of the present Congress failing to make the proper reduction of the Tariff, we have every reason to believe the President of the United States will convene the next as soon as practicable after the 4th day of March next; Therefore,

Resolved, That our sister State South Carolina be respectfully requested to suspend the operation and enforcement of any and every penal enactment made, or to be made, carrying into execution the ordinance of her Convention, which may endanger the peace and harmony of these United States, until, at least, the first day of September next, to give time to the present or next Congress of the United States to act upon the subject of the Tariff.

Which were read the first time, passed, and, on motion of Mr. Cowper, ordered to be printed.

Thursday Dec. 27.

On motion of Mr. Carter, the committee on the judiciary was instructed to examine into the legality of a claim made by the President and Directors of the State Bank, by which they have exacted interest of four per cent, on the reserved stock (not paid for) belonging to the State in said Bank; and they were further instructed to inquire by what authority the President and Directors of the New York and Cape Fear Banks pay the same per cent. due the State upon the individual

stock, out of the whole amount of the joint capital stock of said Bank.

Mr. Spaight presented a bill to amend an act, passed in the year 1829, to provide for a division of Congress and other chattel property held in common; Mr. Dobson, a bill to amend the act to vest the right of electing the clerks of the County and Superior Courts in the free white men of their respective counties; The first of which bills was read the first time, and the second three several times, passed and ordered to be engrossed.

On motion of Mr. Hinton, the Senate proceeded to take up the bill to reduce the salary of the Supreme Court Judges; which was read the second time and passed—Ayes 35 Nays 19

Mr. Bailey, in behalf of himself and the minority of the committee on the S. Carolina Documents, presented the following counter report; which on motion of Mr. Montgomery, of Hertford, was laid upon the table and ordered to be printed.

The Joint Select committee, to whom was referred certain documents transmitted by His Excellency the Governor of S. Carolina, to the Governor of this State, and by him, communicated to the Legislature, have made their report and have recommended certain resolutions. The undersigned, as one of that committee, begs leave to submit the following reasons wherefore he could not assent to all the principles contained in that report.

The report asserts, that Nullification is revolutionary in its character, subversive of the constitution, and tends to a dissolution of the Union. If this were true, and it possessed either of these pernicious qualities, it certainly merits the severest disapprobation and censure from every friend to the constitution and to the Union. But it is, on the contrary, it should be found, upon a careful, and an honest examination, to possess the only conservative principle by which the constitution can be saved, and the Union perpetuated, then it should find advocates among the friends of State Rights and constitutional liberty. In order to arrive at a correct and satisfactory conclusion upon this all important and absorbing question, it is necessary to examine the well founded principles upon which our government rests, and especially the design and objects of its framers. Did they design to establish a consolidated government, limited it is true by a written constitution, out, in fact, possessing all power

which our countrymen have the right to demand? The journals of the Convention show that they did not. Was there ever such a political body in this country as the people of the United States in their collective capacity? It is believed there never was. How then was the constitution of the United States brought into existence? If by the people in their aggregate or collective capacity, then this government is a consolidated government; but if, on the contrary, the constitution is a compact between sovereign states, made for special purposes, to carry into execution, their joint designs, then it would seem to follow, that this is a confederated government. The constitution was formed by the States, as states; they voted as states in the convention, in forming that instrument, and afterwards in its ratification acted as states in their sovereign capacity. There were propositions made in the convention by the advocates of federal power, to make the general government a consolidated empire, thereby causing the states to bear the same relation to the general government that the counties now do to the states. These propositions were rejected by the advocates of state rights, who maintained, that the objects of the federal government and the Union did not require that the states should surrender one particle of their sovereign sovereignty. It will be conceded by the friends of state rights, that at the time of forming the constitution, the states possessed all the attributes of sovereignty, and that this sovereignty resided in the people of each state. Each state had a government composed of legislative, judicial and executive departments; to each of whom were delegated by the people, in their sovereign capacity, certain trust-powers to be executed by them; and yet it will not be contended, that the delegation of these trust-powers to the separate state governments, deprived any one of those states of their sovereign sovereignty. It should be borne in mind, that sovereignty and government, do not in this country reside in the same body. Sovereignty is unlimited power, it is "unalienable and indivisible." It resides in the people, and when they assemble in convention for the purpose of making a new government, or of revising their organic law, they exhibit to the world entire sovereignty, and their voice, next to the voice of God, must be obeyed. "The Government of the people is derived from this sovereign body. It is composed of certain functionaries possessing legislative, judicial and executive powers, limited by a written constitution, and always under the control of the sovereignty of the people. These sovereign states, finding from experience that certain powers could be exercised by a joint government to their mutual advantage, without impairing their individual sovereignty, and without surrendering the constitution of the U. States. They

delegated to that government, the power of declaring war, of regulating commerce, of forming treaties with foreign nations, and of doing other acts of an external character, which would essentially promote the happiness and interests of all the states. All power not granted to this general government, is reserved to the states respectively, or to the people. So long as the general and state governments keep within their respective jurisdictions, so long will the constitution as well as the rights and liberties of the citizens, be preserved; but so soon as either transcends its prescribed limits, that moment the constitution is violated, and the suffering party has a right to immediate redress. These difficulties and conflicts between the general government as the agent, and the respective states as the principals, were foreseen by the patriots and sages who framed the constitution. There were two parties in the convention as there are now, and as there will be so long as this government has a name. There were men for giving the general government nearly all power, and reducing the states to pet corporations; but there were others who boldly stood forth as the champions of state rights and constitutional liberty. The advocates of a national consolidated government, trusted with much pertinacity and zeal, that the right to decide a controversy between a state and the joint agent of the states, should be lodged in the one or the other departments of the general government. A distinct proposition was made to give the power to the supreme court. These efforts failed, because the REPUBLICANS of that day believed that it would be unwise to trust any body with the right of judging, when that very body might be guilty of the usurpations complained of.

The journal of the convention and the constitution will show, that no such tribunal was ever made. From the foregoing observations, it would seem to follow as a legitimate conclusion, "that the several states composing the United States of America, are not united on the principle of unconditional submission to the general government, but that by compact under the style and title of a constitution for the United States and amendments thereto, they constituted a general government for special purposes, delegated to that government certain definite powers, reserving each state to itself the residuary mass of all the sovereign powers not delegated, whensoever the general government assumes undelegated powers, its acts are unauthorized, void and of no force; that to this compact each state acceded as a state, and as an integral part; that this government created by this compact was not made the exclusive or final judge of the extent of the powers delegated to itself, since that would have made its discretion, and not the constitution, the measure of its powers; but that as in all cases of compact, among parties having no common judge, each party has an equal right to judge for itself, as well of infractions as of the mode and measure of redress."

In 1798 the assembly of Virginia adopted among others the following resolution, in which the undersigned heartily concurs: "That this assembly doth explicitly and peremptorily declare, that it views the powers of the federal government, as resulting from the compact to which the states are parties, as limited by the plain sense and intention of the instrument constituting that compact, as no farther valid than they are authorized by the grants enumerated in that compact; and that in case of a deliberate, palpable and dangerous exercise of other powers not granted by the said compact, the states who are parties thereto have the right, and are in duty bound to interpose for arresting the progress of the evil, and for maintaining within their respective limits, the authorities, rights and liberties appertaining to them." This, together with the resolutions adopted by Virginia in '98, and their report and resolution of '99, embracing the Kentucky resolutions of the same years contain, it is believed, the political faith of the republican party in this country. If then, the States on account of their sovereignty, have a right to judge in the last resort, it is made their duty in case of usurpation to interpose for the purpose of arresting the progress of the evil within their respective limits, with what propriety can those acts be called revolutionary in their character, when they are not only rightful but done with a view of arresting the progress of usurpation? If this right of judging in the last resort, does not violate any provision of the constitution, but on the contrary is consistent with its spirit and genius, then the judgment pronounced by a state, must be as valid and binding upon the citizens thereof as if the same had been pronounced by a tribunal appointed by the constitution itself. If the people of a state meet in convention, and annul an unconstitutional act passed by their own legislature, no one would question their right to do so, much less would the act be branded as revolutionary. If they meet in the same capacity and declare an unconstitutional act of the federal legislature null and void, and absolve their citizens from all obligations to obey it, having the right to judge of the mode and measure of redress, it is not perceived why the latter

act is revolutionary, and the former not. They are both acts of the same sovereign power and exerted for the same purpose. The violent acts of a mob, throwing off all lawful restraints upon their conduct, violating the constitution and changing the forms of government are revolutionary in their character, and would tend to a dissolution of the Union. But will any man, who has any definite idea of the terms he uses, call that revolutionary which is ordained by a people in their highest sovereign capacity, and carried into practical effect by their courts and juries. No, it is preposterous to pronounce that revolutionary which is not done by force, but which is peaceful in its character and executed according to the forms of law. If then, Nullification is not revolutionary in its character, as it is conceived it has been shown, much less is it subversive of the constitution, or does it tend to a dissolution of the Union. If the states were sovereign powers, when the compact was entered into, and have not parted with that sovereignty, if they have the right to judge when that compact has been broken, and by their judgment to protect the property, the liberties and lives of their citizens, as has been demonstrated, the constitution instead of being subverted will be preserved, and the Union, our glorious bond of Union, transmitted to posterity as a precious heritage worthy of the sons of freedom.

The efforts which the citizens of South Carolina are now making for political and civil liberty, are worthy of the sons of these revolutionary heroes who sacrificed their lives for the rights of man.

The Tariff acts of which they complain, are ourselves pronounced unconstitutional, oppressive and unequal. In 1828, in a memorial against the tariff, adopted by the Legislature of North Carolina, the following opinion was expressed, to wit: "It is conceded that Congress have the express power to lay imposts, but it is maintained that that power was given for revenue and revenue alone, and that every other use of the power is usurpation on the part of Congress." If South Carolina is doing nothing more than struggling against acts which we ourselves believe to be unconstitutional, oppressive and unequal, and if, in the language of the illustrious Jefferson, "those acts, being unconstitutional, are unauthorized, void and of no force," with what justice can it be said, that her course is subversive of the constitution, when her acts are no more than a resistance to unconstitutional, oppressive and unequal laws?

South Carolina, you have nothing to fear, although, like the whigs of '76, you may be denounced by your cold and calculating advisers, and threatened with the military arm of federal power; although the selfish politicians of the present day will do you injustice; a time will come when your deeds and your motives will be appreciated. The historian will record your acts; and posterity will do justice to your motives. A Hayne and a Hamilton, with many other noble patriots will credit and adorn the historic page, and the efforts which you are making to preserve the constitution and the rights of the states, will be sung by the poet in immortal verse.

J. L. BAILEY.

On motion of Mr. Montgomery, of Hertford, the Senate went into a committee of the whole, Mr. Spaight in the chair, upon the resolutions reported by the joint select committee to whom was referred the South Carolina Documents; and afterwards time spent therein, the speaker resumed the Chair, and Mr. Spaight reported the resolutions with sundry amendments, with which the Senate concurred; and the resolutions as amended were read the second time and passed—Ayes 47, Nays 7.

YEAS.—Messrs. Allison, Askew, Bell, Brittain, Bullock, Collins, Cowper, Dismouth, Dobson, Gavin, Hall, Harrison, Hawkins, Hinton, Hogan, Hoke, Houston, Howell, Kerr, Lamb, Latham, Leak, Lindsay, Marshall, Martin, Massey, Melvin, Moffit, Montgomery (of O.), Moore, Morris, Parham, Parker, Ray, Rhodes, Seawell, Spaight, Spencer, Towner, Vanhook, Wilder, Williams, Wilson.

NAYS.—Messrs. Bailey, Carson, Faison, McDowell, Matthews, Montgomery (of H.), Wellborn.

Friday, Dec. 28.

The resolution requesting the State of South Carolina to suspend the operation of the Ordinance of their Convention, was read the second time. Mr. Martin moved to amend the resolution, by striking out the words "until at least the first day of September next;" which was agreed to, and the resolution, as amended, was read the second time and passed.

The bill to reduce the salary of the Supreme Court Judges was read the third time, passed and ordered to be engrossed—Ayes 36, Nays 22.

YEAS.—Messrs. Bullock, Cowper, Dismouth, Faison, Gavin, Hall, Harrison, Hawkins, Hinton, Hoke, Houston, Howell, Hussey, Kerr, Lamb, Latham, Leak, Martin, Massey, Matthews, Melvin, Moffit, Montgomery (of O.), Moore, Morris, Moxe (of G.), Moxe (of P.), Parham, Parker, Ray, Rhodes, Spaight, Tyson, Vanhook, Wellborn, Wilder.

NAYS.—Messrs. Allison, Askew, Bailey, Bateman, Bell, Bledsoe, Brittain, Carson, Carter, Collins, Dobson, Hogan, Hall, Lindsay, Marshall, Montgomery (of H.),

Norman, Skinner, Spencer, Stedman, Williams, Wilson.

Saturday, Dec. 29.

Mr. Hinton presented a bill more effectually to preserve the purity of elections, and to protect the liberty of the citizens of this State; which was read the first time and rejected.

Mr. Houston presented a bill, to incorporate the Cabarrus Artillery; and Mr. Hawkins, a bill for the better regulation of volunteers; which was read the first time, passed, and the first laid on the table.

The Senate then proceeded to take up the resolutions declaring the attachment of the General Assembly of this State to the Constitution of the United States, and denouncing the doctrine of Nullification, and the resolutions having been read the third time, Mr. Wilson moved to amend them by inserting the following preamble and resolutions between the fifth and sixth resolutions:

And whereas, by the fifth article of the Constitution of the United States, it is provided that on the application of two thirds of the several States, Congress shall call a Convention for proposing amendments thereto; and whereas it is the opinion of this General Assembly that the said Constitution needs several amendments, restraining and restricting the powers of Congress and prescribing some tribunals to decide upon matters wherein the said Constitution and the Constitution and rights of the States may be brought into question; therefore

Resolved, That the General Assembly doth hereby make an application to the Congress of the United States to call a Convention of the several States to propose amendments to the Constitution of the United States.

Resolved further, That this General Assembly request that the Legislatures of the several States will make to the Congress of the United States, a similar application; that the Constitution of the United States may be so amended as to restore peace and harmony to the confederacy, prevent a dissolution of the Union, and perpetuate the blessings of liberty to us and posterity.

Which amendment was agreed to, the Speaker voting in the affirmative.

Mr. Hall further moved to amend the resolutions by striking out the third resolution, and inserting the following: "Resolved, that the General Assembly of this State request the Congress of the United States, to suspend the operation of the Ordinance of their Convention, &c." which amendment was agreed to. Mr. Seawell moved further to amend the resolution by striking out the following words, to wit: "to give time to the present or next Congress of the United States to act upon the subject of the Tariff;" which amendment was also agreed to, and the resolutions passed as amended—Ayes 50, Nays 8.

Monday, Dec. 31.

The resolution requesting the State of South Carolina to suspend the operation of the Ordinance of their Convention, &c. was read the third time. Mr. Spaight moved to amend the preamble to said resolution, by striking out the words "fourth of this month," and inserting in lieu thereof the words "fourth day of December, 1833," also to add the following as an additional resolution, to wit: "Resolved further, that a copy of the foregoing resolutions be transmitted by the Governor of this State to the Governor of the State of South Carolina;" which amendments were agreed to. Mr. Seawell moved further to amend the resolution by striking out the following words, to wit: "to give time to the present or next Congress of the United States to act upon the subject of the Tariff;" which amendment was also agreed to, and the resolutions passed as amended—Ayes 50, Nays 8.

Tuesday, Jan. 1.

Whereas, by a Convention on the part of Tennessee, North Carolina and South Carolina, held at Asheville on the first Monday of September, 1859, it was then resolved that a Rail Road be constructed from the head of navigation upon the Holston, in the State of Tennessee, along the valley of French Broad river, in North Carolina, to the head of navigation in South Carolina; and whereas the President of the United States has ordered a survey of said route, and the States of Tennessee and South Carolina have respectively made appropriations to defray the expenses of said survey within their respective limits;

Be it therefore resolved, by the General Assembly of the State of North Carolina, that the sum of five hundred dollars be, and the same is hereby appropriated to the survey of said route within the limits of this State.

Be it further Resolved, that the Governor of this State be, and he is hereby authorized to issue his warrants upon the

State Treasury, for the purpose of defraying the expenses of said survey within the limits of this State.