

CONVENTION PROCEEDINGS,
CONTINUED.

The 29th section being read.

Mr. J. A. Cameron moved a substitute placing the appointment of field officers in the militia, as well as general officers, in the Governor.

Mr. Love hoped that this amendment would not be agreed to. The mass of the people were better qualified to appoint their field officers than the Governor. In the country from whence he came, the people were in favor of appointing their own officers, and he thought it best they should do so.

The amendment was negative.

All the succeeding sections till the committee came to the 40th were passed without objection.

Mr. Brittain moved to strike out a part of that section, which left a discretionary power in the Legislature to call the General Assembly oftener than biennially, if they thought it necessary. He wished to place the discretionary power in the hands of the Governor only.

Mr. Yancey, in part of the section would be retained, as he thought the Legislature ought to have the power of meeting more frequently, if they considered that the public interest required it. But if any extraordinary occasion should arise, when the Legislature is not in session, then the Governor will have the power to make the call.—He thought this power might be very safely left with the Legislature. To refuse it, would be imputing to the members of that body, motives which they did not deserve. Indeed no Legislature would venture to direct an extraordinary session without good ground for it, as they would have to answer to their constituents. There was another reason why he thought this power ought to be left with the Legislature. It might happen that the people might wish the General Assembly to meet oftener, and the Governor may be opposed to it; and in such a case, he thought the opinion of the Legislature ought to prevail, rather than that of the Governor. He was free to acknowledge that, on ordinary occasions, one session in every two years, would be sufficient. Independent of the saving of expense, there was another reason why a less frequent meeting of the Legislature ought to be preferred. Too much legislation is worse than too little. So long as annual sessions continue, private business will continue to increase, and one session will be called upon to undo what was done at a preceding session. But though he was in favor of biennial sessions, he wished the Legislature to have the power of meeting oftener if they thought the public interest required it.

Mr. Love was in favor of the proposed amendment. He was not for leaving it in the power of the Legislature to meet oftener than the time fixed by the Constitution. If there were any necessity for meeting oftener, there can be no doubt that the Governor will always be willing to call an extra session. But if the clause stands as it is, the Legislature might think it necessary to meet every year. The people whom he represented were in favor of biennial sessions; but he was willing that the Governor should have the power of calling the Legislature more frequently whenever he deemed it necessary.

Mr. Pifer was also for the amendment.—He was not willing to give the Legislature the power of meeting or not. It would be offering too great a temptation to members to give them the privilege of meeting every year if they chose. He preferred that the power of directing extraordinary sessions of the Legislature should be left with the Governor only.

Mr. Williamson would state to the committee, some considerations which would lead him to vote for this amendment. From the little knowledge which he had of this State, he was induced to believe that its interests did not require an annual meeting of the Legislature. Soon after the formation of the State Government, when it was necessary to enact an entirely new code of laws, annual sessions were desirable and proper; but the present state of things did not require so much legislation, and it became us to conduct our Government with as much economy as possible. The State needs money for public purposes, and this money must be obtained either from an increase of taxes, or from a retrenchment of our expenses; the first would not be acceptable to the people, but the last would.—We have, said he, for some time been engaged in promoting Internal Improvements in this State. To carry on and complete these, will require more funds than we have the command of at present. The sales of the Cherokee lands have been appropriated for this purpose; but this source will after awhile cease. The Dividends arising from the Newbern and Cape-Fear Banks, are also appropriated in this object, but these will be insufficient, and may be diverted from this object, whenever the Legislature shall so determine. By holding the sessions of the Legislature biennially, a large sum of money will be saved for public purposes. And though he did not believe that any Legislature would come here, and unnecessarily legislate themselves into annual sessions, he was unwilling to confer to the Legislature a power which ought to be defined in the Constitution.

As observed by the Gentleman from Haywood, the Governor of the State is authorized to call the Legislature together on extraordinary occasions. He thought the power properly lodged with him, and that it ought not to be given to the Legislature. Indeed, such a course, he believed, would be unprejudiced. He hoped, therefore, the proposed amendment would be agreed to.

Mr. Sumner observed, that if the question now before the committee, were to determine whether we should in future have annual or biennial sessions of the Legislature, the arguments of gentlemen would be in point; but the question is merely, whether the Legislature shall have power, when necessary to meet oftener than once in two years, or whether this power shall be wholly left with the Governor. For his part, he had quite as much confidence in the Legislature as he had in the Governor, and should have greater fear that the Governor might convene the Legislature unnecessarily, than they would themselves do so. By whom, he asked, are the Legislature selected? By the people.—The power is therefore, in fact, left with the people, and it is properly left there. There is a difference of opinion amongst the people, whether the sessions shall be held annually or biennially; but my word for it, said Mr. S., if a majority of the people shall decide when the question is put to them, on biennial sessions, no Legislature would take upon itself the responsibility of meeting oftener, except from impious necessity. He hoped, therefore, the provision would be retained.

The amendment was agreed to, and then the section, as amended, was concurred in.

Mr. Cameron moved to add, after the word "counties," in the 2d line of the 41st section, the words "and towns," with a view of providing Representatives for the towns of Newbern, Wilmington and Fayetteville, and proposing, if this amendment was agreed to, to deduct a Representative from each of the counties in which these towns are situated.

This amendment was negative in committee of the whole; but it was agreed to in the Convention afterwards, as will appear in the proceedings.

After considerable, rather irregular debate on fixing the ratio of Representatives in the Senate, the section, as it stands, was agreed to, as the best that could at present be formed, though not perfectly satisfactory to all the Delegates present.

The 45th section which provides for the trial of impeachment being read.

Mr. Carson thought that the majority of the Senate ought to be sufficient to convict an offender, instead of two-thirds, and offered an amendment to that effect. He knew that two-thirds were required in the Senate of the United States to convict; but he thought a majority was sufficient. These officers, he said, were invested with high authority and possessed great influence, and requiring two-thirds to convict, puts them almost out of the reach of the law. In all important trials in England before the twelve Judges, a majority convicts. He thought if men in office so conducted themselves as to be brought to trial by impeachment, he saw no necessity for so much caution about their conviction.

Mr. Yancey hoped the amendment would not obtain. This provision as to the number necessary to conviction was not adopted by the committee, because it was the number fixed upon in the Constitution of the United States; but if it had, the authority would have been good. He thought there was great safety in the provision, which he believed had been adopted by most of the States. He did not believe any thing was to be feared from the influence of any officer who might subject himself to impeachment; he thought it more likely that such men might suffer from popular excitement, which this provision was calculated to guard against. He hoped, therefore, it would be retained.

Mr. Carson would have no objection to a provision that should displace the officers of Government on the address of two-thirds of both branches of the Legislature; but when a Governor or a Judge is to be tried by the Senate, and two-thirds of the body are required to convict him, no conviction could be looked for. You might, said he, as well tell an offender, at once, to go on in his vicious course. Responsibility is out of the question.—You cannot convict him. The best council is always employed in defending such persons. Judge Chase, when he was tried, employed talents to defend him which could not be met, and it was a provision of this kind in the constitution of the United States that saved him. If a majority could have convicted him, he would have been convicted and removed from office.

Mr. Settle said, that on an occasion like the present, members ought to be ready to sacrifice their individual opinions on all matters of minor importance; but rather than submit to the doctrines of the gentleman from Rutherford, that officers of the government should be removable on the address of two-thirds of the General Assembly, or that a bare majority of the Senate should be able to convict an impeached officer, he would be for going home as they came, and tell their constituents they could do nothing. The gentleman has said, that but for a provision like that which he moves to expunge from this Constitution, a certain Judge would have been convicted. This shews the necessity of guarding these officers against popular excitement; for since party spirit, which was then at its height, has subsided, it has been found that there was no good ground of impeachment against him; and it was nothing but this salutary provision in the Constitution that saved him from disgrace and infamy. And suppose one of our Judges, said he, should make an unpopular decision on some party question, might it not be an easy thing to get a majority of the Senate to convict him? Such a case might happen, and we ought to guard against it, and make our officers independent of popular clamour. Experience, indeed, shews us, that the more independent our Judges are in their decisions, the less popular they are in the community. It is therefore the more necessary to defend them by proper guards, of which the one now attacked was essential.

Mr. Carson said, he would make but a single observation in reply. The officers in question it will be recollected, cannot be put upon their trial until a majority of the House of Representatives shall say they deserve to be impeached. They are then to be brought before the Senate, and two-thirds of that body must agree as to their guilt, before they can be convicted. And if two-thirds do not agree on this point, the offenders return upon society without any thing more than the censure which the public may pass upon them. He thought this afforded offenders too great a chance to escape, and he wished the section therefore amended.

Mr. Mangum said, after what had fallen from the gentlemen from Caswell and Rockingham against the proposed amendment, it might seem unnecessary to add any thing farther. But he could not give a silent vote upon it. An attempt to place the officers of our government in so perilous a situation could not be too severely reprehended.—Who, asked Mr. M., are to try these men when impeached? Are they judges who will be likely to sympathize with them? No, they will be men taken from the people with all their prejudices. So that there would be no security for the persons accused, but by requiring at least a concurrence of two-thirds of their judges to produce a conviction. He considered the principle contained in this amendment, as striking at the root of the independence of the Judiciary. He looked on the doctrine as abominable; and sooner than adopt it, he would lift his voice against any change in the Constitution at all.

The amendment was negative without a division.

Mr. Yancey proposed an amendment (the 47th section) that all officers, now in office, shall continue, &c; which was agreed to.

The reported Constitution being gone through, the committee rose, and reported the amendments to the Convention, which then adjourned till to-morrow.

Saturday, Nov. 15.
Mr. M. R. Moore, a delegate from Stokes, took his seat.

The Convention took up the Report of the Committee of the whole.

After reading the 2d section, Mr. Brevard moved to strike out the word "that" at its commencement, as unnecessary and improper.

Mr. Yancey said, this word was found in the old Constitution, and was therefore retained, on the ground that he had before stated, that no alteration was recommended, but such as the committee believed absolutely necessary. He hoped the word would be permitted to remain.

Mr. Brevard observed, that every step which the Convention took convinced him that they ought to have first gone into a committee of the whole and fixed on certain principles of action, instead of referring as they had done, the subject to a committee of seven. We referred to that committee, said he, the discharge of a business undefined in its nature, instead of instructing them to report on particular subjects, the consequence has been an unsatisfactory report, which members had been restrained from amending out of respect for that committee; but as this is the last day of the session, he hoped that gentlemen would bring forward such amendments as appeared to them necessary. The chairman of the committee is unwilling to admit any departure from the words of the old Constitution, except on principle. But as the word "that" is unnecessary, and is omitted in the 1st article, he hoped it would be dispensed with in the 2d and following sections.

Mr. Yancey regretted that he was again called upon to justify the report of the committee of which he had been a member. He knew not how satisfactory that report had been; but he knew that the gentlemen who composed it had paid great attention to the subject, and had executed the business committed to them to the best of their ability, though it had neither been a very pleasant, nor a very easy duty. Gentlemen were certainly at liberty to propose whatever amendments, to it they thought proper, but he hoped that all such as were proposed, would be of some importance, and not mere verbal criticisms.

The amendment was negative.

Mr. Mangum again moved to substitute the word "members" for that of Representatives in the 2d line of the 3d section, which was agreed to.

The remaining amendments were concurred in without debate.

(To be continued.)

GENERAL ASSEMBLY.

SENATE.

FRIDAY, NOV. 21.

Mr. Cameron presented the following resolution, which was read three times, passed and ordered to be engrossed:

Whereas the Honorable William Norwood, Esq. one of the Judges of the Superior Courts of Law and Equity of this State, was prevented by extreme illness from holding all the Courts in the circuit to which he was allotted this fall:

Resolved, That the Public Treasurer be and he is hereby authorized and required to pay to the said William Norwood the full sum he would have been entitled to receive from the public Treasury, in like manner as if he had held the courts in the Circuit assigned to him: And for so doing, this shall be his warrant.

On motion of Mr. Graves, a select committee was appointed on the Militia Laws, and the public arms of the state—and the following Gentlemen were named as the committee, viz. Messrs. Graves, Brittain, Williams, McLeary, and Ward.

The following persons are appointed on the several select Committees, ordered on the message of the Governor:

On Internal Improvement: Messrs. Cameron, Burgess, Legrand, Caldwell, & Hatch of Wayne.

On Agriculture: Messrs. Hatch, of Jones, Pifer, Gray, Harrell and Bethune.

On Criminal Law: Messrs. Martin, Welborn, Bryan, Graves, and Shipman.

On Cherokee Lands: Messrs. Seawell, Love, Forney, McLeod, Brittain,—and pursuant to a Resolution presented by Mr. Sneed.

On Education: Messrs. Sneed, Hill of Franklin, Whitefield, Ward, Hill of Stokes; and

On the Library Committee: Messrs. Forney, Bryan and Bullock.

The committee appointed to conduct the balloting for Engrossing Clerk reported that John C. Ehringhaus was duly elected.

Mr. Gray presented the petition of Jane Wellborn, of Randolph county, praying the passage of a law securing to her such estate as she may hereafter acquire: And Mr. Baker presented the petition of sundry inhabitants of the county of Brunswick, in favor of John Clewis; which were referred to the committee on Privileges and Elections.

SATURDAY, NOV. 22.

The following persons were appointed a committee of Finance on the part of this House: Messrs. Hatch, of Jones, Bullock, Flowers, Marshall, Ward, Gray, Martin and Wellborn.

A certificate was received from the House of Commons, of an allowance made by the County Court of Cumberland, in favor of Isabella Campbell, countersigned by the Speaker of the House;—which, on motion of Mr. Bethune, was countersigned by the Speaker of the Senate.

Mr. Brittain presented the resignation of William Orr, Lieut. Colonel of the first regiment of the militia of Buncombe county; and Mr. Alexander presented the resignation of Andrew Hudlow, Col. Commandant of the 1st regiment of militia of Rutherford county, which were read and accepted.

HOUSE OF COMMONS.

FRIDAY, NOV. 21.

James Iredell, Esq. the member from the town of Edenton, appeared and took his seat.

Mr. Martin, of Rockingham, introduced the following resolution:

Whereas, many of the good people of this State, believing it essential to the future prosperity of themselves, and their posterity to amend the Constitution thereof; and having, in the exercise of an unquestionable right, duly selected Delegates from their several counties, for the purpose of proposing amendments to the same; and the Delegates aforesaid having convened in Raleigh agreeable to appointment, and in convention, did agree on sundry amendments thereto, for the consideration of their constituents: And whereas, this House believe it their bounden duty at all times, when fundamental principles become a question, to afford the free citizens of this State an opportunity of expressing and ascertaining their collective sentiments thereon: therefore,

Resolved, That a select committee be appointed, with special instructions to report a bill to this House, for the purpose of causing polls to be opened and held in each county in this State, at the usual times and places of holding elections for members of the next Legislature, for the purpose of ascertaining the sense of the People on the proposed Constitution, and to cause due returns thereof to be made to the next Legislature.

Resolved further, That thousand copies of the existing Constitution, and the Constitution as amended, be printed for the information of the citizens of this State.

Mr. Alston withdrew the resolution which he submitted yesterday, instructing the Treasurer of the State, to give a statement of the amount of capital stock invested in the several Banks in this State, &c.

Mr. Worth, from the committee of Privileges and Elections, to whom was referred the petition of Jesse Cooper, of Martin county, contesting the election of Gabriel Stuart, a member of the House of Commons from that county, reported favorably to the sitting member; which report was concurred with.

The following Message was received from the Governor by his Private Secretary:

I herewith lay before your honorable body, a number of petitions from prisoners confined for capital offences in the Jails of Wake and Franklin counties, praying for a Court of Oyer and Terminer for said counties. Whether the law of 1777, empowering the Governor and Council to cause said Courts to be held when they shall think it advisable, is deficient, inasmuch as it does not make any provision for the coercive attendance of clerks, sheriffs, or witnesses, I shall leave to your better understanding.

These petitions being presented to me but a short time previous to your session, I have thought proper to submit them to your wisdom.

I also submit to your honorable body, sundry important papers, touching the interest of titles to the Cherokee lands, ceded by them in treaty to the United States in 1817 and 1819.

I have the honor to be, Gentlemen, your obt. servt., GAB. HOLMES.

On motion, so much of the above Message as relates to the petitions of prisoners, was referred to the committee on the Judiciary; and so much as relates to titles of the Cherokee Lands, was referred to the standing committee on that subject, and the Message sent to the Senate.

Messrs. Fisher, Brodnax, and Thomas N. Mann, from the Library committee on the part of this House.

On motion, that part of the Governor's Message relating to the Indian reservation of lands, was referred to a select committee, composed of the following members: Messrs. Mebane, Iredell, Carson, Croom, and Brown.

SATURDAY, NOV. 22.

Mr. Ashe presented the petition of sundry inhabitants of the counties of Cumberland and Bladen, praying for a repeal of a law passed at the last session, directing the running of the dividing-line between the said counties: ordered to lie on the table.

The following resignations were read and accepted: Ninian Edmondston, Lieut. Colonel of the Haywood County Militia; Andrew Campbell, Lieut. Col. of the 3d Regiment in Burke county; Joseph Daniel, Major of the 1st battalion of the 1st regiment of the Edgcombe militia; J. Willie, Col. Commandant of Cabarrus county.

On motion of Mr. Turner, it was resolved, that all resolutions the object of which is to draw money from the public treasury, be read three times in each house.

Mr. Alsten withdrew the resolution submitted by him a few days since, relative to the Banks of this State, and substituted the following:

Resolved, That a joint select committee be appointed to enquire into the state and condition of the several incorporated Banks in this State; whether their Notes are at this time redeemed agreeably to their charter with specie; and if not, to ascertain when the said Banks will be ready to resume specie payments; and also to enquire whether the Notes of said Corporations, or any of them, have depreciated from their intrinsic value, and if they have so depreciated, to investigate and report the means, if any, of improving and sustaining the credit of said notes.

Which resolution was sent to the Senate for concurrence.

A message was received from the Senate proposing to ballot for Public Printer, which was, on motion, laid on the table.

Mr. Stanly introduced the following resolution:

That a joint select committee be appointed to enquire whether the Public Printing can not be done with more economy than under the existing laws, either by special contract or otherwise; and that said committee report by bill or otherwise.

This resolution was agreed to, and the following members were named as

a committee on the part of the House: Messrs. Stanly, Mebane, Blackledge, Shepherd and Strangers.

The following Report was received from the Treasurer, read, referred to the Committee of Finance, and ordered to be printed:

To the honorable, the General Assembly of the State of North-Carolina.

By the Laws of the State, it is made a part of my official duty to inform you, that the Receipts at the Treasury of North-Carolina for the year commencing with the first day of November, 1823, and ending with the last day of October, 1823, including sundry payments of arrears, and the public taxes of every other description which became due and were paid at the Treasury of this State within that period—together with the Dividends declared by our State Bank on the stock or shares held in it by North-Carolina—the purchase money or proceeds of the vacant and unappropriated lands lately entered, and paid for in course of the time above mentioned—and the collection made from the bonds given by the purchasers of the Public Lands near Raleigh, which were sold in 1820, amount to \$114,613 74 1-5.

To this sum, the balance remaining in the Treasury on the first day of November, 1822, and thereafter to be accounted for, as reported to the last General Assembly, being added, to wit, \$114,461 99, an aggregate amount of \$229,075 73 1-5 is formed.

From this sum total, disbursements have been made within the time first above mentioned, including the Treasury Notes and other monies burnt, to the amount of \$119,352 53 3-4: The vouchers for which have been handed over to the Comptroller, and are, of course, in readiness for the examination of the Committee of Finance.

This expenditure, being deducted from the aggregate amount above mentioned, will be found to leave a balance of \$109,723 21 5-6, remaining in the Treasury of this State on the first day of November instant—say on the first day of November, 1823, and hereafter to be accounted for. It may be proper, however, here to observe, that \$3,187 11 of this balance, being the proceeds of vacant lands entered and paid for, are appropriated by law for the promotion of Agriculture, &c.; which being deducted, will leave \$106,536 10 5-6 only, for the ordinary purposes and support of the government.

In the printed statements, furnished by the Comptroller for the use of the members of the present General Assembly, the several items forming the reception and expenditure above mentioned, will be found, entered in their proper places and under different heads.

The nett amount of the dividends declared by the President and Directors of the State Bank, upon the shares held in it by North-Carolina, including as well the dividend of December, 1822, as that of June, 1823, (after deducting the interest claimed and retained by that corporation, as due it under the provisions of the act of Assembly of 1811, on account of the unpaid-for shares of the stock held therein by this State, up to the first Monday of December last,) was \$18,019 76: of which sum \$13,762 65, were paid over to the Public Treasury by the officers of that Bank, in money of the emissions of 1783 and 1785, and were thereupon burnt and destroyed, as the law directs. The remainder, being \$4,257 11, was had in notes of the Bank, there being, at that time, no more money of the emissions above mentioned in the vaults of the Bank.

Of the sum of \$109,723 21 5-6, above mentioned, as being the balance due and payable from the Public Treasury to the State of North-Carolina, on the first day of the present month, viz. on the first day of November, 1823, \$55,738 83, are deposited and stand at my credit, as Public Treasurer, in the State Bank of N. Carolina, at Raleigh—\$36,991 20 are deposited and stand at my credit, in like manner, in the Bank of Newbern, in Raleigh: And \$17,289 35 are deposited in like manner, and stand at my credit, as Public Treasurer, in the Bank of Cape-Fear, at Fayetteville:—The remainder is in the public chest, and is kept there to be at hand and in readiness to meet the demands or expenditures of the day.

In the month of Dec. last, John Patton, esq. the Commissioner appointed by Gov. Holmes, to superintend the selling, &c. of the lands belonging to this state, commonly called the Cherokee Lands, paid into the Public Treasury, the sum of \$3,773 15, being the nett proceeds of the sales made by him and which had come into his hands in cash, as commissioner aforesaid: which sum was forthwith & agreeably to law, placed at the credit of the Board of Internal Improvements; as has been likewise and since that period, in the course of the late fiscal year, the further sum of \$5,883 49, collected from the purchasers at the sales made by Messrs. Franklin and Mebane, and Wellborn and Tallaferro.

Col. Patton, the commissioner above mentioned, at the same time handed over likewise at the Treasury, the bonds taken to secure the payment of the balance of the purchase money of the lands sold by him as aforesaid, amounting to \$28,710 65; the whole of which were placed on file, none of them having become due or payable, until very lately.

The Public Treasurer has rendered to the Board of Internal Improvements an account of his Receipts and Expenditures from the 1st of November 1822, to the 1st of November, 1823, embracing the sums above mentioned, together with all other monies received by him, which are subject to its Drafts or disposal; which shews or leaves in his hands yet to be accounted for, the sum of \$17,261 38.

From the statement which commences this Report, it will be seen, that the Expenditures or Disbursements at the Treasury for the last year, including the Money burnt, exceeded the Balance which remained in the Public Treasury on the 1st day of November, 1822, by several Thousand Dollars:—It is believed however, that in the course of the present fiscal year, the Dividends which will probably be declared by the State Bank on the Stock held in it by this State, being well nigh disencumbered and released from the redemption of the old paper Money, will so materially add to the balance remaining in the Public Treasury on the 1st day of November inst. already and above reported, as to render it fully and perhaps more than commensurate to the support of Government.

Much and respectfully,
Gentlemen,
Your obt. servt.,
JOHN HAYWOOD, Pub. Treas'r.
The Exposés or statements of the Affairs of the three several Banks of this State, required by a Resolution of the last Assembly, will be laid before the Legislature on Monday next.
Raleigh, Nov. 22d, 1823.