

GENERAL ASSEMBLY.
HOUSE OF COMMONS
December 15, 1828.

DEBATE

On the bill for forming a new county by the name of *Albemarle*, out of the territory lately acquired by Treaty from the *Cherokee* Indians.

continued.

Mr. *Thompson* was sorry, in the discharge of his duty, that he was under the necessity of addressing the committee on the subject of this bill. He did not come prepared to enter into the discussion. He had supposed, after the debate which had taken place some days ago, on a similar occasion, that a silent vote would have been given on the passage of the bill. But no, say gentlemen, the *battle* is to be fought over again. We have cogent reasons to offer in favor of the passage of this bill, in addition to those offered in favor of the passage of the one heretofore discussed.

He had listened with great attention and pleasure to the display of talents, which had been exhibited by gentlemen in support of this bill; but he had not heard as yet, one single substantial reason offered, that would in his opinion, justify the passage of this bill into a law. If he could have been induced to have voted for either of the new county bills, it would have been for the former, rather than this, as he considered its claims much greater.

Ours is a Republican Government, and governments of that description, present some of the most difficult questions for decision. Questions whose various bearings it is often difficult to discern. Our republic is a complicated system—a compound of Aristocracy and Democracy, and in pursuing our republican principles, we are liable to be led into Democracy on one side or Aristocracy on the other. He believed that our republican institutions embraced principles containing the better part of each and consisted of a medium between the two. In order that we might more thoroughly understand the nature of these principles, our fore-fathers have declared, what they considered the basis upon which our republican institutions are founded, and what are the principles of which they are composed. It is not sufficient that gentlemen come forward and say that the inhabitants of the territory in question, have a just claim to be erected into a new county, and an additional representation of three members to this Legislature.

If they will look into that well known and immortal work, in which the principles of Government are so accurately delineated, the *Federalist*, the production of a Madison, a Jay and a Hamilton, they will find that this question is there most conclusively settled.

The principle of this Government as there defined clearly is, that taxation and representation shall go hand in hand, and he called upon gentlemen to say, if this be not one of the landmarks of the republican principles of this country, as taught and inculcated by the great sages of the Revolution. If so, let us not be unmindful of them, but endeavour to attend to them. When gentlemen appeal to the liberality of the committee, he would say, that those who are opposed to this bill would be as ready to do an act of liberality as they who advocate it; but the present is not a subject of this kind. It is a matter of policy, not of generosity.

For what, said Mr. B. are we sent here? Is it not to protect the power, the interest and property of those whom we represent, and facilitate the means of their promoting and obtaining the same? If he mistake not, it was the most important part of their business. Yet we are called upon to lay aside considerations of this kind, and to act with liberality towards those people, regardless of the interest of those we represent. Was it just, said Mr. B. to lay a tax upon our people of some three or four thousand dollars annually, so long as we are able to pay the expenses of our Government, and thereby increase the representation and power of these counties, and enable them to vote away thousands, while they pay barely hundreds into the Treasury? Would the small inconveniences of which they complain, justify such a sacrifice? To justify such an act, in his opinion, would require a most crying necessity, which he did not see in the present case.

The time might arrive when it would be proper to form this section of country into a new county—but he could not vote in favor of admitting them until they were properly qualified. He should consider himself a traitor to the dearest rights of his constituents to do so. When they come forward and say, we have paid in annual taxes a sum sufficient to defray the expenses of a county government, then he must admit them. And is this unreasonable? He thought not. It is the same principle on which Congress admits new States into the Union. Certain qualifications are requisite; hitherto thirty thousand souls—now, if my recollection serves me aright, forty thousand. When you have this qualification, say they to the Territory, you shall be admitted as a State into the Union, but until you obtain that number, you must be content to remain as a Territory. He thought the analogy between the two cases a just one. The county proposed to be erected possessed neither a population nor taxation to entitle it to additional representation.

But we are told that no qualification is necessary. It is enough that these people labour under a few inconveniences to entitle them to be formed into a new county, and to enable them to acquire the privileges of the same. Territorial extent had been urged to justify their claims; but he should like for gentlemen to place their finger upon any clause of the constitution, or elsewhere, that recognized such a principle. Territorial extent had no bearing, nor right, to representation. It

had been contended for by the framers of our constitution. This request of the gentleman who advocated the measure reminded him of the fable of the *Fox* and the *Crane*, though he feared the object of one was *fresh*, the other *power*. He hoped the eastern people would not be thus gulled, and surrender up their birthright, in endeavoring to remove the cause of a feigned complaint. After the east had given them a new county, they might reward us as did the *Fox* the *Crane*. He thought it wrong to increase the expense of the State without an absolute necessity. He did not think it reasonable, because some of these men had ten or fifteen miles further to travel to Court than their neighbors, that they should be erected into a new County. He would venture to say, that there were more people in the county of *Halifax*, that had farther to travel to court, than there were in *Haywood*; yet there were no complaint heard from them. Look, said Mr. B. at the difficulties which some of the citizens in the eastern section of the State encounter, to get to their Courthouse. In going to court they pass by water, and have to brave the wind and the waves, and are not infrequently blown out to sea and are from home some days or weeks. In fact, they do not think of returning home in less than two or three days. When they have particular business they generally go prepared to stay during the court. These difficulties cannot be removed by legislation. By it, you cannot hush the winds, nor stay the storms; nor can you legislate away the hills, the valleys, or the mountains. To attempt to remedy these grievances, it would be necessary to erect a Courthouse in every neighborhood.

In deciding this question, the committee ought to do it in reference to the interest of the State and sound policy, and he did not believe that it was compatible with the policy and interest of the State, at this time, to adopt this measure. But gentlemen say, that the State has given a pledge that they would form them into a county. He denied that there was any thing like a positive pledge contained in the acts alluded to, on the part of the State. The act had been read again and again, and to what did it amount? It speaks of erecting a new county at a proper time—but leaves it entirely discretionary with the Legislature to say when that proper time has arrived. At a proper time then, we shall be willing that they shall be thus formed into a new county—but let the Legislature be the judge of that time; that is, whenever they shall be able to pay taxes equal to the additional charge which will be added to the burdens of the people of the State by such a measure. Gentlemen blow hot and blow cold with the same breath. They complain of the many small counties which we have at the east, and for that reason desire the call of a convention to remove this nuisance. Yet they are willing to add to the number of small counties to the west, and by this means get rid of one evil, by adding another. For his part, he thought the fallacy of such an argument, was too apparent to escape the intellectual eye. He frankly acknowledged that he had rather vote for the consolidation of two of these small counties, than to increase their number. He believed it to be sound policy to do so. Indeed, no question had ever been more distorted than this. It had been asked, and peremptorily too, of what our fore-fathers complained, and what separated them from Britain, but taxation without representation? Are not these people already represented here? Certainly they are, and in a greater proportion than their taxation or population entitle them to.—They are already more represented in proportion to their taxation and population than almost any county in the State; yet they ask for additional representation, without a additional taxation. The friends of this bill therefore are contending for representation without taxation. The very principle for which England contended, and which the colonies denied, as being not justified by any principle of freedom or justice, while we who are opposed to it are desirous that taxation, population and representation should go hand in hand.—He had been indirectly informed by the Senator from *Haywood* county, that the part proposed to be erected into a new county, contained but 115 freeholders, of which 58 would be a majority of the whole number; and would, of course, elect a member to that body, who would have the same weight with others who had obtained the votes of 1000 freeholders. Their poll-tax received from 760—the half of which, supposing the new county contain half of the persons polled, would be three hundred & eighty, including the 58 freeholders which would be entitled to three representatives. These 380 pollable citizens, including the 58 freeholders, supposing they pay one-half of the revenue that the County out of which it is to be erected, (and which pays itself only \$392 77, paying a revenue of \$196 38), would be represented by three members in the Legislature, while each one of whom would draw a sum not less than \$230, if their pay should be equal to that of any one of the members who now represent the whole of *Haywood* County. Let it be remembered, said Mr. B. that *Haywood* County, at this time, pays less into the Treasury than any county in the State except three, *Columbus*, *Ashe* and *Jay*, one of which lies to the East, the other two to the West. Yet it is said out of *Haywood* we should erect another county. Then allowing the two Counties, say *Haywood* and her offspring, with a pollable population of \$760, and a tax tion of \$392 77, six members, while *Orange*, *Cumberland*, *Granville*, *Wake* and *Halifax*, containing an average of a pollable population of \$20,000, yielding a revenue to the State averaging \$2,000 each. Yet they are allowed but three Representatives each. In his judgment they were, in effect, pay 12 men in *Haywood* County, to come and legislate away our people's property, without regard to justice or to equi-

ty. Yet, because we raise our voice against this, we are charged with injustice, persecution and illiberality. Because we will not consent that this small number of voters, and this small quantity of revenue should be allowed an additional representation of three members to this General Assembly. The gentleman from *Hillsborough* had spoken with much eloquence on this occasion. He was always delighted to hear that honorable gentleman on all occasions, and was sorry he could not concur with him in some of the opinions he had uttered on the present occasion. He seems to speak contemptuously of any argument which is founded on the calculation of dollars and cents, in relation to the present subject. He seemed to be in favor of a splendid and magnificent Government, and not one where dollars and cents were of such high consideration. Mr. B. supposed, that the splendid and magnificent Government, so much admired by the gentleman from *Hillsborough*, might be good for the favored few, but believed that a Government founded on the plain principles of republican economy and simplicity, would, in his opinion, be much more likely to ensure the happiness and prosperity of the people of this country.

The gentleman from *Granville* had certainly expressed himself correctly on this subject. He was unwilling to give to the West three additional votes on so weak a claim in this Legislature, as the present evidently was; which they might use to the detriment of the East and the larger counties generally. The gentleman from *Salisbury* had invoked the House not to be influenced by sectional considerations. In that he perfectly agreed with that gentleman, for he had ever thought it more of a matter of policy between the greater and lesser Counties, than between the Eastern and Western Counties; & that it was alone from the unanimity preserved by the West, that had led him to suspect it of being a sectional question. He believed, that the West was as much or more influenced by sectional feeling on this subject, than the East; and he feared that it might be considered a question of power more than of convenience.

The gentleman had also spoken of the sum which *Haywood* county had paid into the Treasury from the sale of her lands—I would like to know, said Mr. B. if the Eastern people did not pay near two-thirds of the purchase money with which that territory was purchased. He thought that the money paid in by the sale of their lands had but little to do with the subject of representation. The gentleman had asked what was the population of the town of *Halifax*?—that he had understood, at one time, eleven voters had sent a member to this Legislature. It was very true, that in the towns as in the country, when there was no opposition, very few persons attended the polls; but he could inform that gentleman that the number of voters of which he had spoken consisted of from 50 to 70, which, he believed, was but little inferior to some of the other boroughs. The Constitution of the State had invested it with a right to a representative—that right it would continue fearlessly to exercise, while our Constitution was in existence. Gentlemen had frequently alluded, he thought, with unnecessary severity, on the right of representation of the little village which he had the honor to represent on this floor.—He thought their animadversions were unjust, were illiberal—for he challenged gentlemen to designate a spot of ground in the State of North-Carolina, to which the State was more indebted for the services of its public men, than that of *Halifax*. It was the birth place of the Constitution—the residence of the first Speaker of the House of Commons. It had been represented by a succession of enlightened statesmen, of whom he considered himself a distorted, feeble, diminished shadow. They were men who never had shrunk from their duty. They always had been fearless in asserting their sentiments upon all measures that affected the public policy of the State. Though he could not boast of his own, he felt proud of the efforts of his predecessors—they would not diminish in comparison with those of any part of the State. According to their number, no part of the State had been more brave, more intelligent and more enterprising, than the citizens of *Halifax*, and he repelled any reflection that might be made against them with indignation. He did not, however, understand the gentleman from *Salisbury* as having made any, though they had been made by others.

Mr. B. concluded by saying he was extremely sorry that questions like the present were so frequently brought before the Legislature; as they were calculated to excite unpleasant feelings. He considered them as questions between large and small Counties, more than questions between the East and West. He considered it impolitic to force such subjects on the Legislature at any time. Instead of diminishing, he thought it increased the inequality which now existed in the representation throughout the State. Lay an additional tax on the people to defray the expense of this new county, and to support the additional judicial circuit—which will be its necessary consequence—with its different judicial functionaries, and he would venture to say, that those who voted for it, would soon have to change places with others. He saw no necessity for the measure, and should consider himself as being guilty of the basest of treason to the eastern part of the State to sanction it; for they already paid in two-thirds of the revenue of the State, and he should therefore inflict on his constituents a wound, that might prove fatal to their dearest rights and interest, to vote for the passage of the bill.

To be concluded in our next.

CONGRESSIONAL SUMMARY.

SENATE.

Mr. *Benton* submitted a resolution, which was adopted, requiring the Secretary of the Treasury to report the amount of public moneys in the Bank of the United States and its branches, at the end of each quarter, from 1817 to 1828, inclusive.

The bill making an appropriation for the first quarter of 1829; the bill compensating Susan Decatur and others; the bill for the relief of Thomas Griffin; the bill allowing an increased drawback on foreign merchandise exported; the bill allowing an additional drawback on refined sugar; and the bill for the continuation of the Cumberland Road, were passed.

Mr. *Chandler* submitted resolutions to inquire into the expediency of abolishing the office of Major General in the army of the U. States, and of changing the law on the subject of brevet commissions.

HOUSE OF REPRESENTATIVES.

A number of petitions were presented by different members; some praying that the mail might not be transported on the Sabbath day.

Several bills were introduced by the chairmen of committees, and sundry resolutions submitted, among which were— one by Mr. *Ramsay*, authorizing the public lands to be divided among the States, and distributing the surplus revenue among them; which was referred to be considered. One by Mr. *Vance*, on the expediency of abolishing the office of Major General, and of providing for three Brigadier Generals. One by Mr. *Anderson*, in relation to the seizure of John Baker, of Maine; and one by Mr. *Hamilton*, referring the Report on Retrenchment, of last session, to a select committee.

On Friday the debate which had been proceeding for some days on the expediency of occupying the Oregon Territory, was superseded by the consideration of private bills, which, by a rule of the House, are entitled to a precedence on Fridays and Saturdays.

Mr. *P. P. Barbour* presented a report from the Judiciary Committee, recommending that a quorum of five Justices of the Supreme Court of the U. States, shall be required to decide on the constitutionality of any law passed by the United States, or by the Legislature of any particular State; and on motion of Mr. *Wickliffe*, (which, however, encountered much opposition) 3,000 copies of the report were ordered to be printed.

The House then took up a Report of the Committee on Indian Affairs, adverse to the claims of certain citizens of Georgia, for the loss of property occasioned by the depredation of the Creek Indians, together with a substitute for it offered by the Georgia Delegation. The question turns on the interpretation of Indian treaties, and is in substance this: whether these treaties, in allowing for the depredations, intended to include property burnt and destroyed, and the issue of slaves carried away. Georgia contends that they do, and adds a claim for interest to the Attorney General of the U. States and a majority of the Committee on Indian Affairs, have made up a contrary opinion.

Mr. *Miner's* Resolutions providing for the gradual abolition of Slavery within the district of Columbia, after considerable debate, and after striking out the Preamble to the Resolutions, have been adopted and the District Committee have been instructed to make a Report on the subject. The bill authorizing the citizens of the Territory of Arkansas to elect certain officers has passed; and the proposition for occupying the Oregon Territory, has after considerable debate, been rejected.

Internal Improvements.

A MEETING of the newly elected Board for Internal Improvements, will be held at Fayetteville, on the 5th of February next; of which all persons interested will please to take notice. J. GALES, Sec. Jan. 10, 1829.

RALEIGH ACADEMY.

MRS. GOODWIN, RESPECTFULLY informs the Citizens of Raleigh, and her Patrons generally, that she will open her School for Young Ladies, in the room of the Academy in which she has heretofore taught, on Monday, the 19th of January, and hopes, that the assiduity and attention which she has heretofore paid to the improvement of her Pupils, will insure her the continued patronage of her friends and the public. —The branches of Education and the terms of teaching, will be the same as heretofore. Dec. 24, 1828.

WANTED.

A Young Gentleman who is well qualified to take charge of an Academy, will hear of an advantageous situation in the Western part of the State, by making an early application at this Office. A Clergyman who would be willing to preach a part of his time, would be preferred. Raleigh, Dec. 3, 26.

BOARDING.

IMMEDIATELY after the adjournment of the Legislature, Mrs. *Jones* *Haywood*, will be prepared to accommodate ten or twelve gentlemen with Board for the year. Mrs. H. would also receive weekly or transient Boarders. N. B. Terms as moderate as those of any genteel Boarding-House in the City. Raleigh, Dec. 31.

Just Published,

And to be had at J. Coles and Son's Bookstore, THE NUMBERS OF CARLTON, Addressed to the People of North-Carolina, on a Central Rail Road through the State.— Price 75 Cents. Dec. 8, 27.

GIGS AND SULKIES

REPAIRED or Painted as hitherto, at the Shop of the Subscriber. A continuance of the public favor is solicited. WASHINGTON WHITTAKER.



State of North-Carolina.

Burke County Superior Court of Law - September Term, 1828.
Margaret Conway, } Petition for Divorce.
John Conway, }
ORDERED by Court, that publication be made for three months in the Raleigh Register, and Western Carolinian, that the Defendant appear at next Court, and plead, on the 4th Monday of March next, Given under my hand, WM. ERWIN, Clerk. By E. A. BRWIN, D. C.

State of North-Carolina, WAKE COUNTY.

Court of Pleas and Quarter Sessions, November Term, 1828.
Fanny Utley, widow of William Utley, dec'd. }
Thomas Utley, and others, } Petition for Dower.
IT having been made appear to the Court, that one of the Defendants, to wit, Thomas Utley, lives beyond the limits of this State, so that the ordinary process cannot be served on him: It is therefore ordered by the Court, that advertisement be made in the Raleigh Register for six weeks, for said Thomas to come forward and answer, &c. to said petition, on or before the next County Court of Pleas and Quarter Sessions, to be held at the Court House in Raleigh, on the 3d Monday of February next, otherwise it will be taken pro confesso, and a decree will be made according to the prayer of said petition. 41-6w B. S. KING, C. C.

State of North-Carolina.

Rutherford County Superior Court of Law - October Term, 1828.
William Hicks v. Elizabeth Hicks. Petition for Divorce.
IT appearing to the satisfaction of the Court, that Elizabeth Hicks, the defendant, is not an inhabitant of this State; it is therefore ordered by the Court that publication be made three months in the Raleigh Register, giving notice to the defendant that he appear at the next Superior Court of Law to be held in Rutherford County, on the 3d Monday after the 4th Monday in March next, then and there to answer, plead or demur to said petition, otherwise it will be taken pro confesso and adjudged accordingly. Witness, James Morris, Clerk of our said Court, at office the 3d Monday after the 4th Monday in September, 1828, and of the 53d year of the Independence of the United States. JAMES MORRIS, CLK.

State of North-Carolina,

WASHINGTON COUNTY. In Equity.—Fall Term, A. D. 1828. Friley Jones

William Jones, Thomas Jones, Jane Jones, Thomas R. Snow and Nancy his wife, Charlotte Jones, by Levi Fagan, her Guardian, and Friley Jones, by Wm. Fagan, Sen. his Guardian. Appearing to the satisfaction of the court, that Thomas Jones resides without the limits of the State: It is ordered that publication be made three months in the Raleigh Register, that unless he appear and answer at the next Superior Court of Equity to be held for the County of Washington on the second Monday in March next, judgment pro confesso will be taken against him. Teste, J. GOLETT, C. M. E. W. C.

State of North-Carolina,

Halifax County. Court of Pleas and Quarter Sessions, November Term, 1828.
Nathan H. Roundtree, } Original attachment.
Littleton Prince, } Levied on negro Lydia. IT appearing to the satisfaction of the Court, that the defendant in this case is not an inhabitant of the State: It is therefore ordered that publication be made for six successive weeks, in the Raleigh Register, that unless he make his personal appearance at the next Court of Pleas and Quarter Sessions to be held for the County of Halifax, at the Court-House in Halifax town, on the third Monday in February next, and reply and plead, judgment by default will be taken against him, and the property levied on condemned subject to the plaintiff's recovery. Teste, M. H. BETTWAY, CLK. Price adv. \$2 75

State of North-Carolina,

Halifax County. In Equity—Fall Term, 1828.
William E. Shine, —Complainant.
George W. Gary, Robert F. W. H. Perkins and Stephen Burrows, Defendants. IT appearing to the satisfaction of the Court that Robert F. W. H. Perkins resides beyond the limits of this State: It is ordered by the Court, that publication be made in the Raleigh Register for 3 months, that unless he appear by the second day of next term, and put in an answer, plea or demurrer to the Complainant's bill, it will be taken pro confesso, and set for hearing *ex parte* as to him. Witness, Edmund B. Freeman, Clerk and Master in Equity, for Halifax County, at office, the 4th Monday after the 4th Monday in September, 1828. EDM. B. FREEMAN, C. M. E.

State of North-Carolina.

Fedecombe County. Court of Pleas and Quarter Sessions, November Term, 1828.
The President and Directors of the State Bank, }
Bennet Barrow, } Original Attachment.
Spencer D. Cotton and Theophilus Parker summoned as Garnishees. IT appearing to the satisfaction of the Court, that the defendant is not a resident of this State. It is therefore ordered, that publication be made for six weeks in the Raleigh Register, that unless the defendant make his personal appearance at the Court of Pleas and Quarter Sessions, to be held for the county of Fedecombe, at the Court-house in Tarborough, on the fourth Monday in February next, and reply and plead, judgment by default will be taken against him, and the property levied on condemned, subject to the plaintiff's recovery. Witness, Michael Hearn, Clerk of said Court, at office, the fourth Monday of November, 1828. MICHAEL HEARN, C. C.

State of North-Carolina,

Bertie County Court of Pleas and Quarter Sessions, Nov. Term, 1828.
Cullen Capelhart, } Judicial attachment, returned to this term. Levied on a negro girl, and the property of Cha's Fleetwood } Charles Fleetwood. IT appearing to the satisfaction of the Court, that the defendant Charles Fleetwood has removed without the limits of this State, so that the ordinary process of law cannot be served on him. It is therefore ordered by the Court, that publication be made in the Raleigh Register, for three months, for the said Charles Fleetwood, that unless he appear by himself or some agent, and reply said property, on or before the second Monday of February next, judgment by default will be taken against him, and the property levied on condemned to the use of the Plaintiff. (By order of the Court.) B. A. RIODES