North Carolina Legislature.

Thursday, Nov. 22.

SENATE.

A message was received from the House of Commons stating that they recede from their proposition to print ten copies for each member of the Legislature of the Message of His Excellency, the Governor, and agree to the proposition to print five.

Mr. Worth presented a petition from Francis J. Kron, praying the Legislature to direct how to ascertain the boundaries of Land in the counties of Montgomery and Stanly, which was referred to the Committee on Propositions and Grievances.

Mr. Halsey preached a resolution, to issue a writ of election to the Sheriff of Pitt county, commanding him to hold an election on the 11th Dec. next, to elect a Senator to supply the vacancy occasioned by the death of John L. Foreman. Read and adopted.

Mr. Boyd presented the resignation of James Settle, a Justice of the Peace for the county of Rockingham.

Mr. Joyner presented the following Resolution, which was read and adopted:

Resolved, That so much of the Governor's Message, as relates to Rail Roads and Internal Improvements, be referred to the Committee on Internal Improvements. So much as relates to Common Schools, be referred to the Committee on Education and the Literary Fund. So much as relates to Agriculture and a Geological, Mineralogical and Agricultural survey of the State, be referred to a Select Committee. So much as relates to Asylums be referred to a Select Committee. And that so much as relates to a Penitentiary, to a Select Committee.

Mr. Bogle presented a Bill to lay off and establish a county by the name of Gaston, which passed its first reading.

Mr. Jefferson presented a bill to lay off and establish a county to be called Moreheat, which was referred to the Committee on Propositions and Grievances.

A message was received from the House, agreeing to the proposition to vote at 12 o'clock for Solicitor of the Sixth Judicial Circuit. The following gentlemen were then put in nomination, viz: Haywood W. Guion, Hamilton C. Jones, James Osborne, James R. Dodge.

The Senate then voted as follows:

For H. C. Jones.—Messrs. Albright, Biggs, Bogle, Boyden, Cowper, Dockery, Bunett, Etheridge, Exum, Francis, Gavin, Halsey, Hargrave, Hellen, Holmes, Hill, Jeffreys, Joyner, Melvin, Moody, Reich, Speight, Stallings, Stowe, Tayloe, Lewis, Thompson, G. W. Thompson, Tomlinson, Wilson and Worth—31.

For James Osborne.—Messrs. Speaker, Elliott, Lindsay, Pharr, Smith and Walker—6.

For J. R. Dodge.—Messrs. Eaton, Gwynn, Hester, Jefferson and McMillan—5.

For H. W. Guion.—Messrs. Cameron, Pasteur and Woodfin—3.

Mr. Elliott presented a Bill to incorporate the Franklinsville Guards in the county of Randolph.

Mr. Boyden presented a Bill more effectually to suppress the offence of trading with slaves, which was referred to the Judiciary Committee.

Mr. Jefferson presented a Bill to prohibit the levying of executions upon growing crops, until said crops are matured, which was referred to the Committee on the Judiciary.

The Senate agreed to print the report of the Treasurer.

Mr. Halsey presented a Bill to protect the Public Bridges in Tyrrell and Washington counties.

Mr. Boyden presented a Bill to alter the division line between the counties of Lincoln and Catawba.

On motion of Mr. Boyden, a message was sent to the House, proposing to go into an election of Judge of the Superior Court of Law and Equity, to supply the vacancy occasion by the resignation of the Hon. Frederick Nash, on Monday next at 1 o'clock.

The Senate took a recess until 3 o'clock.

3 O'CLOCK.

The following Resolution offered by Mr. Biggs, was read and adopted:

Resolved, That the Committee on the Judiciary inquire into the expediency of giving to the Courts of Law, jurisdiction of equitable claims and demands not exceeding in amount the sum of $50.

Mr. Tayloe presented a Bill to cede to the United States, a certain tract of land lying on the Island of Portsmouth, Carteret county, for the purpose of erecting a Marine Hospital, which was, on motion of Mr. Hellen, referred to the Committee on the Judiciary.

The hour agreed on by the two Houses to vote for Secretary of State, having arrived, the Hon. Wm. Hill, the present incumbent, received the unanimous vote of the Senate.

HOUSE OF COMMONS.

Mr. Adams offered a resolution proposing to send a message to the Senate to raise a Joint Select Committee of three, to compare the votes cast in August last for Governor of this State, which was agreed to.

Mr. Poindexter offered a resolution in favor of Leonard Zigler, Sheriff of Stokes County, which was referred to the Committee on Claims.

The Speaker laid before the House a communication from the Treasurer, the reading of which, on motion of Mr. Guthrie, was dispensed with, and a proposition sent to the Senate to print said Report.

A resolution was offered by Mr. Scales, authorizing the Clerk to furnish each member with a copy of "Indexes to Colonial Documents." He said—My object, Mr. Speaker, in offering this Resolution, is to carry out the intention of the last Legislature, that each member of the present Session should have a copy of these "Indexes," thereby enabling them to act more understandingly upon the recommendation, to which these refer, of His Excellency, the Governor.

Mr. Shepard, in supporting the resolution, entered into the history of these papers, and referred to some interesting incidents connected with the Revolutionary history of North Carolina.

Mr. Graves, of Caswell, made some remarks, indistinct to us. Mr. Moore, of Halifax, also inquired, whether it required the co-operation of the Senate, when, at the suggestion of the Speaker, Mr. Scales moved that his resolution lie on the table until the elections for Solicitors should be decided.

On motion of Mr. Poindexter, leave of absence was granted until Monday next, to C. L. Payne.

A Resolution offered by Mr. Thomas Wilson, was rejected, proposing to send a message to the Senate, to raise a joint select Committee of *four*, to whom shall be referred so much of the Governor's Message as relates to Common Schools.—The House objecting on the ground of there being a Committee on Education, and should therefore appropriately be referred to them.

Mr. Saunders offered a Resolution, to refer so much of the Governor's Message as relates to a Penitentiary, to a joint select Committee of *five*. Withdrawn, to allow Mr. Moore to offer a series of Resolutions that refer parts of the Message to appropriate Committees.

Mr. Hayes offered a resolution to refer so much of the Message as relates to Cherokee Bonds, to a Joint Select Committee.

Mr. Moore, addressing the Chair, said—He had considerable difficulty in suggesting an appropriate Committee for this part of the Governor's Message, and as he had no disposition to thwart the wishes of any gentleman concerned in these bonds, especially one so deeply interested as is the gentleman from Cherokee, he withdrew his Resolution. Whereupon, Mr. Hayes' Resolution was then adopted.

Mr. Foy introduced a Resolution, which was read and referred to the Committee on Claims, instructing them to inquire and report what sum of money, if any, was paid by Messrs. Gash and Kethan, of Henderson county, on account of mistake made in the survey of a Tract of Land, purchased by them at the late sales of Cherokee lands.

Mr. Fleming introduced a bill to repeal the Jury Terms of the County Courts of Yancy county, read and referred to the Judiciary Committee.

Mr. Wilder presented a memorial from Timothy Hoskins, of Onslow county, contesting the seat of E. W. Saunders, Commoner from that county, which was referred to the committee on Elections.

Mr. Moore offered the following Resolutions:

Resolved, That a message be sent to the Senate, proposing to raise a joint select committee of *five* on the part of each House, to whom shall be referred so much of the Governor's Message as relates to the Rail Roads and their financial connection with the State.

Also, to raise a joint select committee of three on the part of each House, to whom shall be referred so much of said Message as relates to an Asylum for the Insane and Deaf and Dumb.

Also, to raise a Committee of three on the part of each House to whom shall be referred so much of said Message as relates to a Penitentiary.

Also, to raise a committee of three on the part of each House, to whom shall be referred so much of said Message as relates to enclosing the Capitol Square.

Mr. Guthrie said, he could support the adoption of the whole of the Resolutions, offered by his friend from Halifax, with the exception of the first. Experience had taught him, that the smaller the committee the better, and he had always found that a committee of ten, was entirely too large both for the expediting of business and therefore necessarily, of making reports, and he would, therefore, move to amend the first Resolution, by striking out *five* and inserting *three*.

Mr. Moore remarked, that the committee raised by this Resolution, would have before them, matters of the highest and gravest importance, nothing less than provision for meeting heavy responsibilities undertaken, on behalf of the Rail Roads by the State. Mr. M. thought it was desirable to have *this* committee as large as practicable, so that the concurrence in committee, if they should be so fortunate, might have a due weight with the House. In providing for these responsibilities, said Mr. M., application of a portion of the cherished fund set apart for Common Schools might be necessary. All would admit, that it was a matter which involved responsibility, but he was prepared to meet it; he would discharge the high trusts committed to him by his constituents; and whether he might be a member of the committee or a member of this House, he would meet the question in such manner as an honorable man should meet his own embarrassments. He admitted, that generally, business was better done, and certainly more speedily, by a small than a too large committee, but he felt assured, that the importance of the matter proposed to be referred, would ensure a punctual attendance of all the committee. No excuse, short of absolute necessity, should be heard.

Mr. Mills, in order to make a compromise with the two gentlemen, said—I propose to amend the amendment by inserting *four*, which was agreed to and the Resolutions then passed as amended.

Mr. Reid presented a Bill to lay off a new county by the name of Graham, out of the Counties of Iredell, Mecklenburg, Lincoln and Catawba, which was, on his motion, laid on the table.

On motion of Mr. Hawkins, a message was sent to the Senate, proposing to raise a joint select Committee of five on Military Affairs.

Mr. Atkins offered a Bill to amend an Act, relative to the Fayetteville Riflemen. Read and on motion of Mr. Hawkins, laid on the table.

A message was received from the Senate, announcing that the hour had arrived when the two Houses agreed to vote for Solicitor of the Sixth Judicial Circuit, and that the Senate would vote on return of its messenger. Whereupon, the House voted, as follows:

FOR HAMILTON C. JONES.—Messrs. Adams, Atkins, Barco, D. A. Barnes, J. Barnes, Beaman, Bond, Bridgers, Brogden, Brower, Calloway, Cherry, Cochran, Collins, Credle, Davenport, W. Dickson, J. G. Dickson, Doak, Douthit, Edwards, Ellis, Gatlin, Golding, Grist, Guthrie, Guyther, Hackney, Harris, Harrison, Jones, Kelly, Locke, Lord, Mangum, Martin, Mitchell, Moore, Murphy, McIntyre, McNair, McNeil, Nixon, Odom, R. T. Paine, Poindexter, Rankin, Regan, Reinhardt, Richardson, H. H. Robinson, Rush, Sanders, Scales, Sharpe, Shaw, Shepard, Smith, Stone, Street, White, Whitehurst, N. L. Williamson, N. Wilson, T. Wilson—64.

FOR MR. OSBORNE.—Messrs. Clayton, Dunn, Emmerson, Fagg, George, Haughton, Hayes, Keener, Kirk, Lemmon, Littlejohn, McLean, Phifer, Reid, Roane, T. H. Robinson, Thrash, Trull, Waddill, Wilder—20.

FOR MR. DODGE.—Messrs. Brame, Brown, Burgin, Church, Cunningham, Fleming, Gambill, Graves, Gee, Hawkins, Lea, Miller, Puryear, Taliaferro, R. P. Williamson—15.

FOR MR GUION.—Messrs. Caldwell, Davis, W. Dickson, Ehringhaus, Faucett, Foy, Hamrick, Jackson, Leathers, Mebane, Mills, Pratt, Prentiss Washington, Watters and Mr. Speaker.—16.

Mr. Moore offered a Bill to amend the Revised Statutes, relating to Clerks and Registers. Referred to the Judiciary Committee.

Mr. Mills, holding in his hand a Memorial from a number of citizens of Rutherford County, praying that a part of that County may be added to Henderson, asked leave to present a Bill to carry out the prayer of the Petitioners, which was read and referred to the Committe on Propositions and Grievances.

Mr. Gambill introduced a Bill for the relief of honest Insolvent Debtors, which was referred to the Judiciary Committee.

Mr. Church introduced a Bill relative to Executions, which was referred to the Judiciary Committee.

On motion of Mr. Waddill, the House took a recess to 3 o'clock.

3 O'CLOCK.

Mr. Ehringhaus presented a Bill concerning Administrators, which was referred to the Committee on the Judiciary.

A message from the Senate transmitting sundry Petitions and Memorials in relation to the subject of altering the dividing line between the Counties of Lincoln and Catawba, and proposing to raise a joint Committee of five from each House, to whom the same shall be referred. The proposition was agreed to.

The House now proceeded to the election of Secretary of State. The Hon. Wm. Hill receiving the whole number of votes cast, with the exception of Messrs. Brame, Harrison, and Hawkins who voted for Mr. Montgomery, was declared duly elected.

Friday November 29, 1844.

SENATE.

Mr. Ennett, the Senator from Onslow County, presented the following Resolution, which was adopted:

Resolved, That the Certificate presented by the Senator from Onslow, on Monday the 18th inst., as well as the one presented by him this day, be referred to a Committee of three, who shall enquire into the facts, and report to this House.

The Speaker announced the following Committee on Finance, viz: Messrs. Dockery, Francis, Cameron, Wilson, Thompson, of Bertie, Albright, Walker and Biggs.

On motion of Mr. Halsey, a Message was sent to the House, proposing to raise a Committee on Military Affairs.

Mr. Stowe presented a Bill to change the location of the Court House of the County of Lincoln, and for other purposes.

The Statement of the Bank of Cape Fear and Branches, made on the 2nd Nov., 1844, was on motion of Mr. Edwards, ordered to lie on the table and be printed.

A message from the House informing the Senate, that the hour having arrived when the two Houses agreed to vote for a Solicitor of the Seventh Judicial Circuit, they should proceed to execute that order, on the return of their messenger. The Senate then voted as follows:

For Mr. Gaither.—Messrs. Biggs, Bogle, Boyd, Cameron, Cowper, Dockery, Drake, Eaton, Edwards, Elliott, Ennett, Etheridge, Exum, Gavin, Gwynn, Halsey, Hargrave, Hester, Holmes, Jeffreys, Joyner, Lindsay, Melvin, McMillan, Smith, Speight, Stallings, Taylor, Lewis Thompson, G. W. Thompson, Tomlinson, Waddell, Walker and Wilson.—34.

For Mr. Bynum.—Messrs. Albright, Boyden, Hellen, Hill, Jefferson, Moody, Pharr, Riech, Woodfin and Worth.—10.

For Mr. Francis.—Mr. Stowe.—1.

Mr. Boyden, on the part of the Committee, reported that neither of the candidates in nomination having received a majority of the votes given, there is election.

On motion of Mr. Boyden, a message was sent to the House proposing to vote again forthwith. The House concurring, the Senate proceeded to vote:

For Mr. Gaither.—Messrs. Albright, Biggs, Bogle, Boyd, Cameron, Cowper, Dockery, Drake, Eaton, Edwards, Elliott, Ennett, Etheridge, Exum, Gavin, Gwynn, Halsey, Hargrave, Hester, Holmes, Jeffreys, Joyner Lindsay, Melvin, McMillan, Smith, Speight, Stallings, Stowe, Taylor, Lewis Thompson, G. W. Thompson, Tomlinson, Waddell, Walker and Wilson.—36.

For Mr. Bynum.—Messrs. Boyden, Hellen, Hill, Pharr, Reich, Woodfin, Jefferson, Worth and Moody.—9.

Mr. Woodfin, on the part of the Senate's Committee to superintend the election, reported that Mr. Gaither had received a majority of the whole number of votes given, and was duly elected.

Mr. Worth presented a Resolution in favor of John L. Christian, late Sheriff, of Montgomery County, which was referred to the Committee on Propositions and Grievances.

The Judiciary Committee were instructed to inquire into the expediency of erecting an Eighth Judicial Circuit for this State, by a Resolution, offered by Mr. Woodfin.

Mr. Joyner presented the following Resolution, which was read and rejected.

Resolved, That the Committee on Internal Improvements be discharged from the consideration of so much of the Governor's Message as relates to Rail Roads, and that the same be referred to a select Committee.

Mr. Worth presented the following Resolution, which was adopted.

Resolved, That a message be sent to the House of Commons, proposing to raise a joint select Committee, to consist of three members on the part of each House, to inquire into the expediency of bringing before Congress the subject of rebuilding the Branch Mint at Charlotte in this State.

On motion of Mr. Biggs, the Senate adjourned until to-morrow ten o'clock.

HOUSE OF COMMONS.

Mr. T. R. Caldwell presented two petitions from sundry citizens of McDowell County, which were referred to the Committee on Propositions and Grievances: one to incorporate the Town of Maysville, and the other praying an alteration of the dividing line between the Counties of Rutherford and McDowell.

Mr. Moore, from the Judiciary Committe, made a report favorable to a Bill to abolish the Writ of Execution, commonly called an *elegit*. Said Bill was explained by Messrs. Moore and Cherry; when it was read the second time and passed.

Mr. Moore, from the same Committee, reported unfavorably on the Bill concerning Executions. [Provides that the property levied on under Execution shall be appraised, and if it do not bring two thirds of its appraised value, there shall be no sale, but a stay of Execution for twelve months, &c.] Said Bill was put upon its second reading, and on motion of Mr. Guthrie, indefinitely postponed—yeas 77, nays 32.

Mr. R. P. Williamson, presented a memorial from the Officers of the 85th Regiment of Militia, and

Mr. Waddill, a Memorial from the 53d Regiment, suggesting amendments in the Militia Laws. These papers were referred to the Committee on Military Affairs.

Mr. R. T. Paine, presented a Bill concerning Edenton Academy; and

Mr. Clayton, a Bill to amend an Act to keep open the French Broad River in the County of Buncombe, and the Tennessee River in the County of Haywood, for the passage of fish, passed in the year 1825, Chapter 118.

These Bills were read the first time and passed and referred to the Committee on Private Bills.

On motion of Mr. Atkins, the Bill to amend the Act to incorporate the Fayetteville Riflemen of the County of Cumberland, was referred to the Committee on Military Affairs.

Mr. Whitehurst presented a petition from sundry citizens of Carteret County, praying that that portion of said County, known as Ocracocke be attached to the County of Hyde: And

Mr. Hayes presented a petition from the Stockholders of the Hiwassee Road in relation to tolls.

These petitions were referred to the Committee on Propositions and Grievances.

The Speaker laid before the House a Communication from Weston R. Gales, Esq., Intendant of Police, tendering the use of the Bell attached to the Town Clock, as a signal for the meeting of the Assembly. The communication was read, and on motion of Mr. Guthrie, a message was sent to the Senate, proposing to raise a Joint Select Committee of two, who shall confer together upon this subject.

On motion of Mr. T. R. Caldwell, the Senate were informed by message of the hour having arrived when the two houses agreed to vote for Solicitor of the Seventh Judicial Circuit, and that the House will vote immediately on return of its messenger. Whereupon, the House voted as follows:

For Mr. Bynum.—Messrs. Speaker, Barco, D. A. Barnes, J. Barnes, Bond, Brower, Brown, Calloway, Cherry, Church, Cochran, Credle, Davenport, Davis, W. Dickson, J. G. Dickson, Doak, Douthit, Edwards, Ehringhaus, Faucett, Foy, Gee, George, Golding, Guthrie, Guyther, Hawkins, Hamrick, Haughton, Jackson, Leathers, Littlejohn, Locke, Lord, Mebane, Miller, Mills, Mitchell, Moore, McLean, Odom, R. T. Paine, Poindexter, Pratt, Puryear, Reid, T. Robinson, Rush, Sharpe, Smith, Street, Thrash, Trull, Waddill, Washington, Watters, Whitehurst and T. Wilson.—59.

For Mr. Gaither.—Messrs. Adams, Atkins, Beeman, Brame, Bridgers, Brogden, Burgin, Caldwell, Collins, Cunningham, Dunn, Ellis, Emerson, Fagg, Fleming, Gambill, Gatling, Graves, Grist, Hawkins, Jones, Kelly, Lea, Martin, Murphy, McIntyre, McNeill, Phifer, Regan, Richardson, H. Robinson, Sanders, Scales, Shaw, Shepard, Stone, Taliaferro, Wilder, N. L. Williamson and R. P. Williamson—40.

For Mr. Francis.—Messrs. Clayton, Hayes, Keener, Kirk, Lemmond, Mangum, McNair, Prentiss, Rankin, Reinhardt, Roane, White and N. Wilson.—13.

Mr. Keener from the Committee on this election, reported that no one had received a majority of the whole number, and that there was no election.

A message was received from the Senate proposing another vote immediately for a Solicitor in this Circuit, which was agreed to, and the House then voted as follows:

For Mr. Bynum.—Messrs. Speaker, Adams, Barco, D. A. Barnes, Bond, Brower, Brown, Calloway, Cherry, Church, Cochran, Credle, Davenport, Davis, W. Dickson, J. G. Dickson, Doak, Douthit, Edwards, Ehringhaus, Faucett, Foy, Gee, George, Golding, Guthrie, Guyther, Hawkins, Hamrick, Haughton, Jackson, Keener, Leathers, Littlejohn, Locke, Lord, Mebane, Miller, Mills, Mitchell, Moore, McLean, McNair, McNeil, Odom, R. T. Paine, Poindexter, Pratt, Puryear, Rankin, Regan, Reid, Reinhardt, Richardson, H. H. Robinson, Rush, Sharpe, Shaw, Shepard, Smith, Street, Thrash, Trull, Waddill, Washington, Watters, Whitehurst and T. Wilson.—63.

For Mr. Gaither—Messrs. Atkins, J. Barnes, Beaman, Brame, Bridgers, Brogden, Burgin, Caldwell, Clayton, Collins, Cunningham, Dunn, Ellis, Emerson, Fagg, Flemming, Gambill, Gatling, Graves, Grist, Hawkins, Hayes, Jones, Kelly, Kirk, Lea, Lemmond, Mangum, Martin, Murphey, McIntyre, McNeill, Phifer, Regan, Reinhardt, Richardson, Roane, H. Robinson, Sanders, Scales, Shaw, Stowe, Taliaferro, White, Wilder, N. L. Williamson, R. P. Williamson and N. Wilson.—48.

Mr. Gaither having received 86 votes, it being a majority of the whole number cast, was declared duly elected.

Mr. Haughton introduced a Bill for the relief and benefit of Orphans, which was referred to the Judiciary Committee.

Mr. J. H. Robinson presented a Bill for the establishment of a Board of Agriculture, which was referred to the Committee on Agriculture.

Mr. Regan presented a Bill to prevent frivolous and malicious prosecutions, which was referred, on motion of Mr. Guthrie, to the Committee of the whole House, and made the order of the day for Monday next.

Saturday, Nov. 23.

SENATE.

Mr. Francis presented the memorial of George Sotherlin, of the County of Cherokee, praying the Legislature to grant him the privilege of working a Silver Mine in Macon County, upon certain restrictions. Read and referred to the Committee on Propositions and Grievances.

The Speaker announced Messrs. Woodfin, Francis, Walker, G. W. Thompson and Holmes, the Senate's Committee on Cherokee Bonds.—Also, Messrs. Jeffreys, Smith and Hester, the Committee on the Library. Also, Messrs. Francis, Wilson and Hellen, the Committee on the Resolution of the Senator from Onslow.

Mr. Woodfin presented the petition of the Stockholders in the Howard Gap Turnpike Company, praying the Legislature so to amend their Charter, as for the State to take an equal amount of Stock with the shareholders. Referred to the Committee on Internal Improvements.

On motion of Mr. Bogle, the Bill and accompanying documents, relative to the erection of a new County by the name of Gaston, were referred to the Committee on Propositions and Grievances.

Mr. Boyden presented a Bill to prevent frauds in levying Executions issued by a single Magistrate upon lands, and to encourage and facilitate the practice of taking security for the forthcoming of property seized under Executions. Read and referred to the Judiciary Committee.

On motion of Mr. Woodfin, the Comptroller's Report ending Nov. 1st, 1837 was ordered to be printed, for the purpose of preserving a record of the same.

Mr. Gwynn, from the Committee on Propositions and Grievances reported unfavorably to the Bill to lay off and establish a County to be called Morehead, recommending its rejection. The Bill and Report was made the order of the day for Monday next.

The Senate adjourned to Monday morning 10 o'clock.

HOUSE OF COMMONS.

The Journal of yesterday being read, the Clerk announced, Messrs. Hayes, Keener, Fleming, Mills and Gambill, the Committee on the part of this House, on Cherokee Bonds.

Mr. Davis presented a Bill, to extend the time for registering Grants, Deeds of Mesne Conveyance, Bills of Sale and Deeds of Gift. *Mr. Graves* a Bill, to incorporate the Trustees of the Milton Female Institute, in the County of Caswell. Read and referred to the Committee on Private Bills.

Mr. Lord, as Chairman of the Committee on Propositions and Grievances, reported without amendment the Bill to cede a portion of Rutherford County to that of Henderson, when the Bill was put upon its second reading.

Mr. Todd R. Caldwell, moved before the reading of the Bill, that it be re-committed to the Committee, in order that his petitions, offered on yesterday, from citizens of McDowell County, in reference to this Bill, may be heard in Committee.

Mr. Mills hoped that the gentleman would not press his motion, but let the Bill pass its second reading, and if the Committee reported favorably to the prayer of the petitioners, which he understood to be, that of leaving the County of Rutherford and attaching themselves to that of McDowell, why, he as the introducer of the Bill, would have no objection to the Bill being amended in that way which the Committee might recommend in their report on this petition, on its third reading.

Whereupon, *Mr. Caldwell* withdrew his motion, and the Bill passed its second reading.

Mr. Lord from the same Committee, to whom the petition of Jorial Barnett was referred, reported a Resolution in his favor. The same Committee reported unfavorably to the petition of David Pennington, and asked to be discharged from the further consideration of the subject, which report was concurred in.

Mr. T. Wilson, from the Committee on Claims reported favorably on the Resolution in favor of Leonard Ziglar, Sheriff of Stokes. The Resolution was then put upon its second reading, when *Mr. Poindexter*, to better enable the House to vote understandingly, explained the nature of the Resolution. It then passed its second reading, and *Mr. P.* moved it be read a third time. Objection being made, the motion was withdrawn.

The House concurred in a proposition from the Senate to raise a joint select Committee of three for the purpose of inquiring into the expediency of laying before Congress the subject of re-building the Branch Mint at Charlotte. Also, a joint select Committee of five on the subject of changing the location of the Court House of the County of Lincoln.

Mr. Hamrick presented a petition on the subject of the dividing line between the Counties of Rutherford and Cleveland, which was referred to the Committee on Propositions and Grievances.

Mr. George presented a Bill to establish a new County by the name of Williams.

Mr. Roane, a Resolution in favor of Wm. Dills, of Macon County. Referred to the Committee on Private Bills.

Mr. Moore, from the Committee on the Judiciary, reported with certain amendments, the Bill to amend the Revised Statutes concerning Clerks and Registers. Said Bill was read, and on motion of *Mr. Mebane*, laid on the table.

The Bill to establish a new County by the name of Graham, was on motion of *Mr. Reid*, taken up and referred to the Committee on Propositions and Grievances. *Mr. Church* and *Mr. Kirk* presented sundry papers and petitions, relating to the establishment of this County, which were, on their motion, referred with the Bill.

Mr. Trull presented a Resolution for the establishment of an additional Regiment of Militia in the County of Union. Referred to the Military Committee.

A message was received from the Senate, disagreeing to the several propositions of the House to raise Joint Select Committees on the several portions of the Governor's Message.

Mr. Moore said, he regretted much the dissent of the Senate to the proposal of the House, to raise Joint Select Committees upon the subjects proposed, and especially upon the proposition concerning the Rail Roads and their financial connection with the State. He feared that this refusal would embarrass the action of the Legislature on so important and pressing a matter. It was highly desirable that the two Houses should be in possession of the same information and views, which was more likely to be attained through the agency of a Joint Committee, than through separate and distinct Committees, having no connection with each other; but as the Senate had refused to concur, and the matter was of the greatest importance to the State, he should move to refer it to a Select Committee of six: And *Mr. M.* offered the following Resolutions:

Resolved, That so much of the Governor's Message as relates to Rail Roads and their Financial connection with the State, be referred to a Select Committee of *six members:*

Resolved, That so much thereof as relates to the subject of Internal Improvements, be referred to a Select Committee of three.

Resolved, That so much thereof as relates to the subject of Capitol Square, be referred to a Select Committee of four. And

Resolved, That so much of said Message as relates to enclosing the Asylum for the Insane and Deaf and Dumb, be referred to a Select Committee of *three*.

Mr. Wilder, of Wake, moved to amend the first Resolution, by striking out the words, "to a Select Committee of six members," and insert, "to the Committee on Finance," urging that this reference was appropriate, because the principal and almost only purpose of the reference, was to provide the ways and means to meet the engagements of the State upon her endorsed bonds. That Committee, said *Mr. W.*, would be bound to attend to the matter, as it was intimately connected with its duties.

Mr. Moore replied at some length, explaining somewhat in detail the several matters which would become the subject of investigation. He said, that a proper inquiry into the subject, involved a judicial construction of the Acts of 1838 and 1840, extending relief to the Raleigh and Gaston Road, and thus much therefore, belonged to the Committee on the Judiciary. It also involved, said *Mr. M.*, the inquiry how provision should be made to meet the engagements of the State, for interest and principal which would become due on the Bonds during the next two years, and this part was appropriate to the Committee on Finance. And that lastly, it involved an enquiry into the propriety of keeping up and continuing the Road, and this part of the subject was peculiarly the provision of the Committee on Internal Improvements. He would not, said *Mr. M.*, thus divide the subject, nor would he refer it to a committee charged with so many onerous duties as the committee of Finance, whose first duties were to investigate the Treasurer's and Comptroller's Accounts, and who could not report on the subject of Roads till very late in the Session, if at all. He, *Mr. M.* was for early inquiry into the condition of the Roads, and as speedy a provision as possible for meeting the liabilities of the State.

Mr. Mills, in opposing the amendment, took the same view of the matter as did *Mr. Moore*.

Mr. Guthrie was opposed to dividing the reference, for, said he, there might be members of the other branch, who were on both the Internal and Financial Committees; that they would have to act twice on the same subject. He thought, with the gentleman from Halifax, that the best reference would have been to a Joint Select Committee, but as the Senate differs in this view, he thought the next best reference to be, as the Resolution proposes, to a Select Committee of this House.

Mr. Moore asked a division of the question.

The Speaker announced that the question would first be on "striking out." He then stated the question, and said as usual,—"Is the House ready for the question? Gentlemen, as many as are of the opinion that these words be stricken out, say Aye."

A question of order was here raised by *Mr. Shepard*, calling for the Ayes and Noes.

The Speaker said the 32d rule required, that "when the Yeas and Nays are called for, on any question, it shall be on motion *before the question is put*."

Mr. Shepard asked to be heard on that matter. The Speaker replying, he would hear the gentleman with pleasure, though he had no doubt on the point.

Mr. Shepard contended the question was not put until the Speaker said—"Those who are of a contrary opinion."

Mr. Moore, with a magnanimity worthy of imitation, arose and said he hoped that the gentleman would be indulged by unanimous consent of every member of the House, in having the Yeas and Nays recorded on the Journal and spread before the people. It had by some, [Mr. Moore alluded to an Editorial in the last Standard written with the usual candor and veracity of that print] been very ungenerously and unjustly insinuated that on a former day he had "contrived" in an emergency like this "to find" an article in the Rules to cut off gentlemen's call for the Ayes and Noes. And now, said Mr. M., although the Speaker had found the article himself and the consequence of the application of the rule was, that the gentleman's vote could not be recorded, yet, he besought the House to allow the gentleman the full benefit of the recorded vote of every man. And since an ungenerous comment had been made upon his movement on a former day, he hoped that the Reporter would note this also.

The Speaker had no hesitation in saying the gentleman from Wake was too late, but by general consent, the Yeas and Nays could be taken, which course he preferred.

On Mr. Graves' objecting to the amendment and declaring he would not support it, Mr. Wilder withdrew his motion. Whereupon, the Resolutions passed as introduced by Mr. Moore.

Mr. Fleming presented sundry petitions of citizens of Yancy County, relating to the abolishing of the Jury Terms of their County Courts, which were referred to the Committee on the Judiciary.

The Resolution presented by Mr. Scales in relation to the Indexes to the Colonial Documents, was on motion of Mr. Graves, referred to the Committee on the Library.

On motion, the House adjourned to Monday morning 10 o'clock.

Monday, Dec. 2.

SENATE.

Mr. Worth presented a Bill to extend the provisions of an Act, passed at the Session of 1830–31, entitled an Act for the relief of such persons as may suffer from the destruction of the Records of Hertford county, occasioned by the burning of the *Court House* and *Clerk's Office* of said county, to extend the provisions of said Act to the counties of Montgomery and Stanly. Read and referred to the committee on Propositions and Grievances.

Mr. Halsey presented a Bill to alter the mode of appointing *Constables* in Tyrrell county.

The Speaker appointed the following *Committees* on the part of the Senate:

On Lunatic Asylum—Messrs. Boyden, Tayloe, Pasteur, Gwynn and Hargrave.

Penitentiary—Messrs. Elliott, Hill, Moody Walker, and Bogle.

On Agriculture, Geological, Mineralogical and Agricultural Survey of the State—Messrs. Edwards, Halsey, Stallings, McMillan and Gavin.

On Military Affairs—Messrs. Dockery, Wilson, Elliott, Pasteur and Cowper.

On changing the location of Lincoln Court House. Messrs. Stowe, Stallings, Francis, Woodfin and Waddell.

On Rebuilding the Branch Mint.—Messrs. Worth, Walker and Stowe.

On Enrolled Bills.—Messrs. Albright and Biggs.

On motion of Mr. Dockery so much of the Governor's Message as relates to enclosing the Capitol Square, was referred to a select Committee.

And on motion of Mr. Francis, so much as relates to altering the time of holding elections in this State, was referred to a select Committee of five.

Mr. Elliott presented a Bill concerning Jury trials, which was, on his motion, referred to the Committee on the Judiciary.

The hour having arrived when the two Houses agreed to vote for a Judge of the Supreme Court, the Senate sent a message to the House informing them that they should proceed to the election on return of their messenger. Whereupon, the Senate voted as follows.

For Frederick Nash—Messrs. Speaker, Biggs, Bogle, Boyd, Boyden, Cameron, Cowper, Dockery, Eaton, Edwards, Elliott, Ennett, Etheridge, Exum, Francis, Gavin, Gwynn, Halsy, Hargrave, Hellen, Hester, Hill, Holmes, Jefferson, Jeffreys, Joyner, Lindsay, Melvin, McMillan, Pasteur, Pharr, Reich, Smith, Speight, Stowe, Taylor, Thompson, of Bertie, Thompson, of Wake, Tomlinson, Waddell, Walker, Wilson, Woodfin, Worth.—44.

Messrs Albright and Moody were absent. Messrs. Drake and Stallings declined voting.

After the announcement of the election of Judge Nash, at the hour of one, the Senate voted as follows for a Judge of the Superior Court, to supply the vacancy occasioned by Judge Nash's resignation.

For D. F. Caldwell.—Messrs. Bogle, Boyden, Cameron, Dockery, Edwards, Elliott, Ennett, Francis, Hargrave, Hellen, Jefferson, Joyner, Lindsay, McMillan, Pharr, Reich, Smith, Stowe, Taylor, Thompson, of Bertie, Waddell, Woodfin, Worth.—24.

For Mr. Moore.—Messrs. Biggs, Boyd, Cowper, Eaton, Etheridge Exum, Gavin, Gwynn, Halsey, Hester, Holmes, Jeffreys, Melvin, Pasteur, Speight, Stallings, Thompson, of Wake, Tomlinson, Walker, Wilson.—20.

Mr. Hill voted for Wm. A. Wright, Esq.

HOUSE OF COMMONS.

The Clerk announced the following Committees:

On Enrolled Bills.—Messrs. Clayton, J. G. Dickson, Doak and Dunn.

Asylum for the Deaf and Dumb.—Messrs. Littlejohn, Phifer and Shaw.

Branch Mint.—Messrs. Kirk, Harrison and Rankin.

Penitentiary.—Messrs. McKenzie, Saunders and Scott, Wadding.

Mr. Mills, as Chairman of the Committee on Finance, reported the Bill with an amendment, to the 9th Section of the Revised Statutes to amend the Comptroller. [The amendment of the Committee is to repeal that part of said Act as requires the publishing of Comptroller's Report in five Newspapers in this State, reducing the number to two and they to be published in the city of Raleigh.]

Mr. Moore moved to amend the Bill, by inserting in the first section, "five copies for the University." These amendments were agreed to and the Bill then passed its second reading.

Two Bills were introduced by Messrs. Brogden and Scales, to prevent the levying of Executions upon growing Crops, until said Crops were matured. Said Bills were referred to the Judiciary Committee.

Mr. Moore introduced a Bill to locate the residences of the Judges of the Superior Courts, hereafter to be elected. This Bill requires the person elected to reside in some one County of the Circuit where the vacancy occurs.

Mr. Barnes from the Committee on Private Bills, reported and recommended the passage of the Bill to authorize Wm. Bland to construct a Dam across Haw River.

Mr. Haughton moved the postponement of said Bill until Monday week, as he wished to have consultation with some of his constituents on the subject, which was agreed to by the House.

Mr. Hawkins presented the Report of the Adjutant General.

Mr. Mills presented a memorial from sundry citizens of Rutherford County, adverse to the attaching of part of said County of Cleveland. Referred to the Committee on Propositions and Grievances.

The Committee to whom was referred the setting apart the time for counting the votes cast for Governor in August last, reported a Resolution which was adopted, designating Thursday next at 12 o'clock.

The Bill to extend the time for registering Grants, Deeds of Trust, Mesne Conveyances, &c., was put upon its second reading, and on motion of Mr. Paine, was referred to the Judiciary Committee.

The Bill to establish a new County by the name of Williams, out of parts of Iredell, Surry and Wilkes, was put upon its second reading and referred on motion, to the Committee on Propositions and Grievances.

The Bill to amend the Revised Statutes concerning Executions, passed its third reading. This Bill repeals the section authorizing Writs of *Elegit*.

The hour of 12 arriving, the Chair notified the House that they would proceed to execute a joint Order of the two Houses, to elect a Judge of the Supreme Court to supply the vacancy caused by the death of the late Judge Gaston.

Mr. Miller here rose and addressed the House, saying:—I moved, Mr. Speaker, on Thursday last, that as the selection of a Supreme Court Judge was a matter vitally affecting the life, liberty and property of every citizen in North Carolina, that the election be postpon