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## Debate

### ON THE JUDICIARY BILL.

On the second reading of the bill establishing a superior court in each county, Mr. Cameron offered an amendment laying off the State into 15 districts, upon which amendment the following debate arose:—

Mr. WALKER hoped the House would not receive it, as he considered it an indirect attack to defeat the original bill. He had an utter aversion to partial legislation, or side blows of this kind. It appeared as if gentlemen were doubtful of meeting the bill on fair and open argument. The bill on your table is no cunningly devised fable; nor is it the production of artifice or intrigue, or of any fer of men to create emoluments for themselves, but the true and legitimate offspring of that class of citizens most highly interested in the government: It had been well matured by the people since the last Assembly, and was now come to the birth. It remained to be seen whether the house would not support it in preference to a bill of yesterday, as one born out of due time, which struck at the principle of the bill on the table, which if agreed to would destroy all hopes of making the contemplated change in the administration of justice. He hoped, therefore, the house would have firmness enough to reject the amendment.

Mr. CAMERON observed, that if the gentleman from Rutherford had exercised a little patience, he would have found that the friends of the amendment meant not to make any direct attack on his favourite measure, but to adopt that course which he desired, by meeting the bill in a fair and open manner; as, in discussing the amendment, the merits of the bill would of course be taken into consideration. Indeed, in order that the friends of the amendment might not be charged with taking the house by surprise, he had yesterday announced his intention of bringing it forward. He hoped, therefore, this was the last time that the charge of unfairness would be made against those who were unfriendly to the bill. They were opposed to its principle, and the amendment proposed went directly to that object, if it did not it would be no favorite of his.

The house had been told that this bill was the bill of the people. He had as much respect for the voice of the people, when legitimately expressed, as any member on that floor; but we are often called to listen to the voice of the people when they have expressed no opinion. What, he asked, was the evidence of this bill emanating from the people? He saw none; and he must have some better evidence of the fact than the bare assertion of the gentleman from Rutherford before he should be convinced of its being so. If the constituents of any member had expressly instructed him on this occasion, it would be right to follow their directions; but when no such instructions were given, every gentleman ought to act according to the dictates of his own understanding. The gentleman has said that this bill had been under the consideration of the people for a year past; but we all know how little attention is paid to such things by the generality of the people. Besides, the people having sent us here as their Representatives to make laws, we ought to pass such as our judgments approve; and if there were any members who felt themselves bound in such a manner as not to be open to argument and conviction, he pitied their condition.

With these preliminary remarks, he proposed, in a brief manner, to examine the merits of our present system of Jurisprudence, and to make some remarks in favor of the proposed amendment.

It would be recollected that this system was formed in the year 1776. And when we enquire who were the authors of it, we shall find they were some of the most enlightened and virtuous patriots and statesmen that ever were convened in North-Carolina. Ought we not, then, to hesitate before we venture to overturn the work of such men, who were at least as enlightened and knew as much of mankind as we do? They did not think

it proper to carry a Superior Court into every county. They devised a plan which placed high and low, rich and poor upon the same footing, by dividing the State into a number of districts. This system has been in operation for 30 years, and but few inconveniences have been experienced under it. All that can be said is that, in some cases, our Courts may have been tardy in their decisions. No person will say, however, that so far as decisions have been given in these courts, they have not been the result of much understanding and correct legal knowledge.

Mr. C. said it would be unnecessary for him to go into a detail of the laws establishing the present Judiciary. Every member must be well acquainted with these; as no one would be in favor of revolutionizing a system which he had not previously examined. In this system the sacred right of Jury Trials is well guarded. What, said he, was formerly a great cause of complaint against the British government? It was that they attempted to infringe this right. This being a strong ground of complaint, the framers of our state constitution took special care to guard against the abuse of it—they endeavored to secure to their fellow-citizens not merely the form but the substance of the right of impartial trial by jury. And gentlemen must excuse the friends of the proposed amendment, if they, desirous of securing to themselves, and those who come after them, this invaluable privilege, cannot give up the *district principle*, which, in their opinion, is its greatest security.

If our population and wealth have rendered it expedient to increase the number of districts, let this be done. And for this purpose the present amendment is introduced, which, at the same time that it brings justice nearer to the people, still retains the *district principle* which we cherish so dearly. Mr. C. was willing to admit that the classification of the counties might not be altogether correct, this might, however, be amended; and perhaps some better provision might be made for the payment of jurors, though the mode pointed out had been suggested to him by some whom he had consulted on the occasion. It would be observed that the friends of the amendment had not lost sight of economy in their plan. Only one additional Judge and one Solicitor being contemplated.

Mr. C. concluded with observing that he should decline a comparison of the merits of the bill with the proposed amendment, as the bounds he had prescribed to himself, together with some indisposition, precluded his going further into the subject, more especially as some other gentleman would do it. He hoped moderation and good sense would be observed in the present discussion and prevail with the house to agree to the proposed amendment.

Mr. LOWRICE most cheerfully acquiesced with the gentleman from Orange, in wishing that nothing but good sense and moderation might prevail in the discussion of the question before the house. Cool and dispassionate reasoning was the best means to obtain the objects sought for by the friends of the bill; for his merits, he believed, would stand the scrutiny of such a tribunal. He hoped that by every member on the floor of this house such an investigation was wished for. Notwithstanding the difference of opinion that obtained respecting the question before the house, he entertained the highest respect for the character and talents of many of those who differed from him in opinion on this subject.

It has been said that the yeomanry of this country wish for a change in the Judiciary; and in this opinion all men agree, and differ only as to how that change is to be made. Some illiberal remarks, however, have been made, and it has been suggested that the people have not been well informed, and that undue means have been used to give rise to those desires. Interested men, from personal motives, have made large and flattering promises, in order to procure suffrages for a seat in the legislature. He said he would forbear to reply to such insinuations. One thing he could not omit; which was, that no man, however eminent for character or talents, using such

means among the people whom he had the honor to represent, could procure thereby a seat in the legislature. He would ask, have not the people of this country, for 16, 18, or 20 years, wished for a change in their system of Jurisprudence? Every member on this floor must recollect such to have been the wish of the people—They are now become clamorous and loud in their demands. Has not the conduct of this house given proof of the fact, annually, for fifteen years? Examine your statute books, and there you will find act after act propping up your Judiciary that is tottering, and which has been long ready to tumble about your ears. Every member on this floor must remember this to have been the case. This is strong and indubitable evidence that justice is not satisfactorily administered. Altho' he was far from wishing even to suggest any thing against the correctness or purity of the decisions of our courts; on the contrary, he believed they were pure and uncorrupted. Seeing, then, that all men agree that some change is necessary, and I take it those opposed to the passage of the bill on your table, are of the number, the question then will be, is the amendment proposed, such an one as will remedy the evil complained of? Every man who will give it the slightest consideration, at one glance will see that it will not. When the bill on your table made us appearance at the last session, a cry was raised that it would be attended with an enormous expence, and such as this country was not prepared to meet; the contrary of which has, in many instances, been fully, unanswerably, and satisfactorily proved. But, Sir, the amendment proposed upon the face of it carries an evidence of great additional expence, and at the same time contemplates few of the advantages contained in the bill on your table. The money at present paid to your Superior Court Jurors, is about 12 or 15,000 dollars, and the amendment proposes an additional number of Jurors, almost equal to what at present you send to your Superior Courts, and at the same time affords none of the advantages contemplated by the bill on your table, except to only seven counties in the state. Mr. L. said he was not sufficiently acquainted with the geography of the state to say how far a remedy to the injury complained of would be afforded by the proposed amendment to every part thereof.—He could, however, with certainty aver that so far as he was acquainted with the several counties in the western part of the state, and their relative situation, not more than a third or a fourth part of the counties would receive any advantage whatever; and even such as were a little nearer to the place of holding the Superior Courts, the small advantage obtained, when put in competition with the addition of an annual expence of between 15 and 15,000 dollars, it would be a burthen rather than an alleviation of the evils complained of. It was true it proposed only the addition of one Judge, and that was calculated to take with the people, as the sums paid to the Judges were direct and liquidated, and much more the object of every man's conception, than the other expence attending the operation of any other Judicial system, yet the truth was, that salaries, when compared to those other expences, was no more than a drop of the bucket. He believed that no district plan could be proposed that could meet the wishes of the people or redress the evils they laboured under. They complained of being obliged to attend their courts at an expence very disproportionate to their pecuniary circumstances, at the distance of 60, 70, 80, 100, or 120 miles from their homes, at an expence more than they were able to bear up under, and it was of no consequence to the suitor, if expence inevitably ensued, whether he paid his money to a clerk or sheriff, a lawyer or tavern-keeper, or into the treasury of the state; he felt no difference in either case; he was unjustly oppressed and impoverished. But where was the justice and equality proposed by the amendment offered? A District Court is proposed to be held at Wilkesborough, 35 miles from Morganton, leaving Buncombe, Rutherford, and Lincoln, without any redress. Then fol-

lows the other courts in the counties of Rowan, Guilford, Wake, Cumberland, and Richmond, all adjoining each other. The truth was, that no equal and impartial distribution of the courts could be made; at least, not any equal to that contained in the bill on your table, without changing the present sites of your Superior Courts, a thing he would be unwilling to do. The state, upon the district plan, could not be meted out into districts in a manner just & equitable, & place the courts central in each of those fifteen districts, so as to place the extremes of each at equal distances from the centre thereof, and thereby do equal justice to all.

It is (continued Mr. L.) candidly confessed by the gentleman from Orange, that it is the district principle he only contends for, otherwise the amendment proposed would not be agreeable to him. [Here Mr. Cameron begged leave to explain; he was unwilling to admit such to be his language, to the extent which he discovered it might lead.] Little need be said respecting the merits of the bill on your table; it has been in the hands of the people for twelve months, and by them has been well considered—they are pleased with it. The principle it embraces is neither new nor untried. I am of opinion, no other principle can be adopted equally salutary and pleasing to the people. Our sister state, South-Carolina, has made the experiment, and in practice it is found to answer every expectation that could be desired—the people are greatly enamoured with it. The states of Georgia, Pennsylvania, Maryland, and many of the other states, have adopted the same principle. It has been said that the present system was adopted by our ancestors, the patriots of '76, who were wiser than the present Legislature, (which will be conceded if it will greatly the gentleman;) hence it ought not to be disturbed. However wise the framers of the present system might have been; and however well it was calculated to meet the wishes, and suit the circumstances of the people of that day, no man will say that the state of society has not materially changed since that time; that the country has not become much more populous, mercantile and wealthy; that the means of life are less easily procured, and that the interests of men more frequently and readily clash; hence the propriety of a change of the system, corresponding not only with the change in the state of society, but such as will probably suit our future condition for years to come. Although the present state of every part of the community may not, at this moment, call for the change, yet the time is fast approaching when it will be absolutely necessary. Every wise Legislature, when about to make any material change in any important institution of our country, will endeavor to do so by giving the least possible shock to society. The bill on your table, Sir, possesses this property in an eminent degree.—Should it go into operation, all that is to be done is to transmit the records and proceedings in the causes to the several counties as directed in the bill; a business that will require little, if no labour, where they will be doctored, and the Judges will go into the counties and try the same causes they, under the present system, would try at the District Courts. The County Courts will go on as usual, except in those counties where the justices, as authorized by the law, may choose, for the greater convenience of the people, otherwise to direct; and this is a legal discretionary power lodged in the hands of those men on all hands agreed to be respectable, that in my opinion no danger is to be apprehended from.

If even it could be proved that in some counties the business thereof does not absolutely require the provisions of the bill on your table, they are but few; by far the greater number of counties requiring the same, and many imperiously demanding it. No doubt can remain in any rational well informed mind, and who has paid the smallest attention to the progress of population, commerce, and wealth, but will at once see that the time is near at hand that a system, and such as the bill on your table, Sir, contemplates, will be suitable and necessary to every county of North-Carolina.