

GENERAL ASSEMBLY.

SENATE

THURSDAY, Dec. 16.

The Senate proceeded to the consideration of the bill giving the assent of North-Carolina to, and enforcing in this State certain acts of the General Assembly of the State of Tennessee, relating to the Smoky Mountain Turnpike &c. Messrs. Love and Seawell moved amendments to the bill, which were agreed to, and the same read the third time and ordered to be engrossed.

Mr. Davis presented a bill supplemental to an act passed in 1806, to regulate and ascertain the pilotage that should be allowed to Pilots at Ocracock Inlet and Swashes.

Mr. Speight presented a bill to prescribe the duty of the Public Printer; and

Mr. Seawell, a bill to amend an act passed in 1821, to consolidate into one, the several acts of the Assembly of this State, relative to the appointment of Trustees of the University, for the government thereof, and for other purposes—which bills were read the first time.

On motion of Mr. Carson, the Senate resolved itself into a committee of the whole, Mr. Forney in the chair, on the bill authorising and directing the Supreme Court to be held in the several places therein directed &c.—after some time spent in Committee, it rose and reported said bill with sundry amendments. Mr. Speight moved for its indefinite postponement, and called for the Yeas and Nays on the question, which were, Yeas 26, Nays 28.

The amendments proposed in the Committee of the whole, were severally read and agreed to.

Mr. Williams of Beaufort, then moved to amend the bill, by striking therefrom "Newbern," one of the places designated in the bill, for holding the Court, and inserting in lieu thereof, "Washington," which was not agreed to. Mr. Carson moved to erase "Statesville" and insert "Morganton," which was not agreed to. The question then recurred on the passage of the bill the second time, which was determined in the affirmative, Yeas 29, Nays 26.

FRIDAY, DEC. 17.

A message was sent to the Senate, proposing to ballot at the meeting of the two Houses, to-morrow morning, for Councilors of state and nominating Wm. Davidson, Edmund Jones, Thomas Wynne, Gideon Alston, Theophilus Lacey, Wm. Blackledge and David Gillespie.

Mr. Love from the committee of Finance reported that it is inexpedient to pass any law compelling Sheriffs before they advertise lands for sale for taxes, to make oath that they cannot find perishable property.

Mr. Wellborn from the joint select committee to whom was referred the subject, reported that it is inexpedient at this time to alter the time of the meeting of the Legislature.

Mr. Wellborn from the committee of Divorce and Alimony reported favorably to the petitions of Rebecca Clark of Guilford and Ann Burn of Duplin, but unfavorably to the petition of Martha Avery of Warren.

The bill to authorize the making of a Turnpike road from the Saluda Gap in Buncombe to the Tennessee line, was read the second time, amended and passed.

The bill to carry into effect a contract entered into between Benj. Robinson and Wm. Robards, Commissioners on the part of the State, with certain Indians of the Cherokee nation named in said contract, was made the order of the day for Monday next.

The bill authorizing an increase of the Capital Stock of the Clubfoot and Harlow Creek Canal Company, was read the third time and ordered to be enrolled. It is therefore a law.

Mr. Hill presented a bill to alter the name of Stephen Outerbridge Fenn.

The bill to prevent the working of seines, skinning or setting of nets in Tar or Pamlico rivers, was read and ordered to be enrolled. It is therefore a law.

The bill to authorize the Public Treasurer to purchase stock, was read the second time. The same was amended read the third time, and ordered to be engrossed, though a motion was made for indefinite postponement.

SATURDAY, DEC. 18.

Mr. Montgomery from the select committee, to whom was referred the resolution, directing an enquiry into the salaries and fees of the public officers, &c. requested that the committee be discharged from the further consideration of the subject, which was agreed to.

Mr. Barringer from the committee on Agriculture, reported a bill to continue in force an act passed in 1822, for the promotion of Agriculture and family domestic manufactures—which was read the first time.

Mr. Wellborn presented a bill to repeal an act directing the County Courts to pay fees to certain officers therein mentioned.

Mr. Gibbs presented a bill to establish a separate battalion in Hyde County.

Mr. Boykin presented a bill, declaratory of the intention of an act passed in 1799, making provision for natural born children, which bills were read the first time:

The House resolved itself into a committee of the whole, on the bill concerning the election of Sheriff, vesting the right thereof in the people. After some time the Committee rose and reported the bill with sundry amendments the principal of which was to strike out the first section. The house refused to concur 30 to 28. The question on the passage of the bill was determined in the affirmative. Yeas 31, Nays 27.

HOUSE OF COMMONS.

THURSDAY, DEC. 16.

Mr. Nixon presented a bill to secure to Priscilla Simpson of Duplin county, such property as she may hereafter acquire; and

Mr. Cox presented a bill to alter the time of electing the Sheriff in future, in Lenoir county—which were read the first time.

Mr. Miller from the committee of Claims, reported favorably to the petition of Charles Phelps of Washington, and unfavorably to that of Jno. Luton. Concurred in.

Mr. Alston from the select committee, to whom was referred the memorial of the Manumission Society, made a report, recommending its rejection.—Concurred in.

The following bills were presented and read the first time:

By Mr. Donnell, a bill to authorize the County Courts of Rockingham, to appoint Wardens of the Poor and build a Poor and Work House, and for other purposes.

By Mr. Culpepper, a bill to regulate the time of appointing Overseers of Roads in Montgomery county.

By Mr. Nixon, a bill to regulate the County Courts of Duplin.

By Mr. Bodenhamer, a bill making compensation to the Jurors of the County and Superior Courts of Davidson.

On motion of Mr. Rurgen, the committee on Internal Improvements were instructed to enquire what sum will be sufficient to repair the road from the Old Fort in Burke county to the Swannano Gap, and the expediency of making such an appropriation.

The House according to order, resolved itself into a Committee of the whole, on the subject of taking from the Board of Internal Improvement the power of appointing an Engineer.

After some debate, the committee rose, and reported the bill without amendment. Mr. Iredell moved for its indefinite postponement—which was negatived, 64 to 61, and the house adjourned.

FRIDAY, DEC. 17.

The recommendation of Field Officers, &c. was postponed to Tuesday evening next.

The following bills were presented and read the first time.

By Mr. Howell, a bill to alter the names of Alfred, James and Henry Blount. The bill was amended so as to include Polly Houston and Monroe Houston.

By Mr. Singletary, a bill prescribing the duty of Constables and other officers, in the county of Bladen.

By Mr. Graham, a bill to provide for revising and consolidating the acts of the General Assembly, concerning Administrators and Executors.

By Mr. McMillan, a bill to complete the road from Huntsville in Surry County, to the Virginia line, by way of Bowerville in Ashe county.

Mr. Hassell presented a resolution that no private bill shall be introduced in this House, after Thursday next—which was negatived.

The bill to amend an act, for establishing a College in the western part of the state of North-Carolina, was read the second time and on motion of Mr. DeLoach was postponed indefinitely.

The bill in relation to the Civil Engineer, was read the second time, and rejected by the casting vote of the Speaker.

SATURDAY, DEC. 18.

The following bills were presented, and read the first time:

By Mr. Carson, a bill to establish a Turnpike road in the counties of Rutherford and Buncombe.

By Mr. Howell, a bill for the better settlement of the Finances of Robeson county.

By Mr. Beall, a bill to amend an act passed in 1821 to amend an act passed in 1810, to amend an act passed in 1809, to amend the several acts heretofore passed relative to the removal of obstructions to the passage of fish up the several rivers within this state, so far as relates to the PeeDee and Yadkin rivers.

On motion of Mr. Cox, the military committee were instructed to enquire into the expediency of forming all free men of color between 18 and 50 years of age into a company or squad of Pioneers, to exercise as such in working

on the public roads, at all times when the Militia meet for drill, within the beat of the Captains respectively, throughout the State, and that they have leave to report by bill or otherwise:

Mr. Stanly presented the petition of Philip Alston of Chatham county, stating that Richard C. Cotton one of the sitting members of the said county, is constitutionally unqualified, and praying that the fact be enquired into—Referred to the committee of Privileges and Elections.

Mr. Stedman presented a bill to repeal an act passed in 1819 to create a fund for Internal Improvements and to establish a board for the management thereof, which was read and ordered to lie on the table.

A number of Bills were read the second time and passed.

Remarks of Mr. J. A. Hill, of New Hanover, on the question indefinitely to postpone the resolution introduced in the House of Commons, by Mr. Alston, of Halifax, to repeal the act of 1818, establishing the Supreme Court.

If the success of this motion depended solely upon my efforts—if my feeble abilities were alone relied on, to avert this blow aimed at the existence of one of the most valuable institutions of our State, I do believe, Sir, that the magnitude of the subject, compared with the imperfect means of securing that object, would keep me silent, however powerfully prompted both by inclination and duty, to utter my sentiments. Happily however, this is not the case—a question so interesting will not fail to elicit the talents of gentlemen, of much more experience and far greater extent of information than myself; on this as upon all other subjects. I approach the question therefore, with utt apprehension, as a failure on my part can have no effect upon its decision.

What, Mr. Speaker, were the motives which led to, and what was the object contemplated in the erection of the present Supreme Court? That tribunal was, as I understand, instituted because your system was defective, because what was declared to be the law of the land to-day, by one Judge, might to-morrow be reversed by the decision of another, because, Sir, the suitor who embarked in your Courts to ascertain his rights, launched his boat, not upon that steady stream of justice which flows like the Propontic to the Helespont without retiring ebb, but upon a moral ocean of uncertainty and doubt, to be wafted in this direction or that as the winds of caprice or opinion blow at one time from this, and at another from that point of the compass. To bring order out of this chaos of confusion, to ascertain the laws, to give that feeling of confidence and security to men in the enjoyment of their property, so essential to their individual happiness, and so necessary to the peace of society, was that tribunal erected, which we are here called upon to destroy.

If it be thought, Mr. Speaker, that I have given an exaggerated account of the condition of our Judiciary anterior to the establishment of the Supreme Court, I appeal to the experience of those gentlemen, who in their professional pursuits have had occasion to examine the Reports of the old Court of Conference, and task them if there be an absurdity in law for which precedent and authority may not be found in its decisions. I ask them if the most opposite and contrary doctrines are not inculcated in the pages of those volumes which record its proceedings? They will answer all this and more.

They will tell, Sir, that I have drawn but a faint and feeble outline of the truth. I am far, Mr. Speaker, from intending any thing injurious to the gentlemen who at different times composed that Court. It was the fault of the *systen* and not of the *men*—it was the fault of that parsimony which to save salaries, imposed upon your judges duties sufficient to crush a Hercules—duties which no man who had not the frame or a Giant or the intellect of a God could adequately perform. The law, Sir, is a complex science, and though founded upon general principles and established maxims is yet full of subtleties and nice distinctions. To apply these principles properly—to practice to save these mysteries and to distinguish a nids these minute differences, requires unremitting application and profound study. The law, Sir, is also a progressive science: it has no point of perfection—no man may remain stationary in it, he must advance or retrograde—he must move with the profession, *passibus equis*, or be left in the dust.

Are the Judges of your Courts allowed the necessary time for study and reflection? it will not be pretended, and yet, Sir, if this pernicious resolution prevails, must we be content to receive their hasty, crude, and ill-disposed opinions, as the evidences of the law of the land?

It may be, Mr. Speaker, that the gentleman from Halifax, (Mr. Alston) the mover of the Resolution, has, amidst the various other schemes which teem in his brain, and float in wild confusion through his mind, some previous plan of altering and modifying the Conference system? Sir, no such plan will now be practicable. From the materials which compose your Circuit Courts, you cannot wish a Court of dernier resort, which will not be obnoxious to the objections brought against the old system. The tribunal which is to decide impartially on all appeals taken from the decisions of the Circuit Judges, should be independent of those Judges. Who would appeal from Cesar to Cesar's colleagues? Who would make complaint of Octavius to Anthony and Lepidus? Thus, Mr. Speaker, the evils experienced under the former system would again be felt upon its restoration, and we should be compelled to seek their remedy, in re-edifying the very institution, which is now proposed to pull down.

We were told the other day, by the gentleman from Halifax, Mr. Alston, that the Supreme Court had done nothing—that it had disappointed the hopes of its friends—that the people had realized from it none of those benefits they had been taught to anticipate—that the laws are as fluctuating and as uncertain now as they were previous to its establishment. This statement was so fully shewn to be false, by the gentleman from Newbern, Mr. Stanly, that it is unnecessary to add a word to the refutation. I will only observe, Sir, that every one who has applied for information at the proper source, must have discovered that great improvement in the laws has already resulted from the deliberations of the Supreme Court. That doubt

after doubt has been removed, as point after point has been submitted to the Court—that the Judges have been and still are industriously engaged in erecting landmarks by which future litigation may be governed and guided.

I am aware, Mr. Speaker, that there are those who will unite with the gentleman from Halifax, in this work of mischief, influenced, however, by other motives than those which govern him: gentlemen, Sir, who find no fault with the system, but object merely to the expense necessary to sustain it—who have entire confidence in the talents and integrity of your Judges, but are unwilling to pay their salaries. Sir, the part of a Ceresus to the Treasury, is a popular part, and therefore there are many willing to play it. But I can inform those gentlemen who think that the laying a dollar to the public chest, is the first and the last duty of a legislator, that your Supreme Court every year saves thousands to their constituents. Litigation must of necessity diminish as the laws acquire certainty. Every doubtful point settled by the Court prevents a hundred lawsuits—but repeat this Court and revert to your old, never ending, still beginning system, an you sound the trumpet of litigious warfare. The profession will again flourish—fees will again flow upon its members in a rich and fertilizing stream. We do not therefore, pay too dearly for the advantages we derive from this Court; nor could we, Sir, expect to receive the same benefits at a less expense.

To make your Court respectable, to secure to it the confidence of the people; to give weight and authority to its discussions—you must adorn its bench with the first talents of the profession, to induce gentlemen to abandon a lucrative practice, you must attach to the office of Judge a liberal salary.

No man will be prevailed on to withdraw from a profitable pursuit by the mere offer of distinction. The dignities of the station will not give bread to his children, nor will he nor ought he to be influenced, by a feeling of pride or of patriotism to the injury of his family. The salaries at present allowed to your Judges are certainly liberal, they are however, not more than a fair compensation, and are actually less than the sums which many gentlemen derive from their practice at the Bar.

Notwithstanding, Mr. Speaker, the gentleman from Halifax has struck his blow fairly and openly at the Court, I cannot but apprehend that his resolution threatens something more than meets the eye. This, Sir, is truly an age of wonders. It is the age of experiment and of discovery—and whilst the Philosophers of other states and of other countries, have been engaged in exploring the fields of moral and physical science, the gentleman from Halifax has not been idle. He may not, Sir, have attempted, like the Naturalist celebrated by Pindar, to ascertain by experiment in what precise degree of affinity a certain insect stands related to the lobster—Nor has he, Sir, to my knowledge, endeavored, with the Philosopher of Laputa, to extract sunbeams from cucumbers. But he has been engaged in pursuits equally interesting and equally profound. The result of his learned researches, is a discovery that the world has been in error ever since men first began to collect into small communities into families and tribes. He has found out that society may exist without law. That the distinctions of meum et tuum; the rights of property—did not grow out of social relations and are not dependent on them, but upon that standard of justice which nature has erected in the breast of every man. As a philanthropist, he is doubtless anxious to afford us the full benefit of his learned labours. He would free us from the unnecessary restraints of law, by reducing his theory to practice. It is not, therefore, Sir, unfair to infer that this blow will be followed by another and another, that it is but the first object in a long perspective of contemplated changes. Your Supreme Court destroyed, your inferior tribunals may be removed with less difficulty, because no man will think them worth defending. Thus Sir, having broken down those guards established by the constitution and the laws to secure us in the enjoyment of our property and our lives, the gentleman will have an opportunity to introduce his favorite and celebrated system of universal arbitration. Under this wise scheme he who feels himself aggrieved by his neighbor, will not be compelled to seek a remedy in the dilatory and expensive process of the law—he will have no occasion for the interposition of a Jury sworn to decide according to evidence, and acting under the unnecessary restraints and idle and jealous precautions of the law. He may seize upon the first six or seven clever fellows he meets with, as they come reeling from the dram shop, the tavern and the brothel, and submit his complaint directly to them. They, Mr. Speaker, will without doubtless decide according to their notions of right, and do substantial justice, unless unfortunately they should be influenced by the fear of offending, or in the hope of receiving some gratification at the hands of the rich and more powerful of the parties.

As to the argument which the Gentleman has drawn from the Constitution, in favor of repealing the law establishing the Supreme Court, I scarcely know what serious answer to make to it. Does the gentleman suppose that because the Constitution secures the independence of the Judges, by making the tenure by which they hold their offices to depend solely on their own conduct, we are forever prohibited from abrogating a system which experience may show to be deficient or vicious, or which from a change of circumstances, may no longer be adapted to our situation? In illustration of this subject, I will remind the Gentleman of a precedent which he will not deny, because I believe it is his boast to have borne a part in the transaction: I allude to the repeal of the Judiciary system of the United States. Was any misconduct alledged against the Judges under that system? No such thing was pretended. The repeal of that system was one of the first acts of that administration, with which the gentleman from Halifax has always acted.

I feel an unusual degree of interest in this question, Mr. Speaker, not only because I believe the institution which we are called on to destroy is highly useful and valuable, but because I believe the reputation of the State is in some degree involved in its decision.

I will not, Sir, utter the mortifying term, that our manhood has failed to realize the promise of our youth, that our State has hitherto been content to follow humbly, where she should have led proudly. I need not speak of the various efforts which have been made to induce her to pursue nobler course—to awake her from her lethargy, and to tear away the fatal poppy which has so long shaded her brow and deadened her energies. It had been hoped that these efforts had not all been made in vain—that our State had at length excited to emulation, would soon recover the ground she had lost by her pre-

vious inactivity. Among the evidences of this regeneration is seen the establishment of the Supreme Court. The colonists, when reproached with the want of enterprise in their native State, and asked what institution he can bestow worthy of remembrance in history, or as an evidence of Supreme Court—he speaks of the learning and integrity of its judges, of the respect with which its decisions are received, both at home and abroad, of the high value which is made for its support, and its appeal is admitted. Shall we, Sir, break down this most only pillar which supports our fame? Shall we commit suicide upon our own reputation? I do hope that we will not be guilty of an act of such madness and folly.

From the Philadelphia U. S. Gazette.

INTERESTING TRIAL.

A friend mentioned to us the other day, that a trial of a very singular nature had just determined in the court then sitting in Philadelphia—we did not attend the court, and will not consequently give any names.

It is stated that a young man, after having been several years in the employment of a Tallow Chandler, in this city, as a book-keeper, &c. concluded to commence business in that line on his own account; which he accordingly did with the concurrence and good-wishes of his employer. Soon after the commencement of his business, or perhaps in the midst of arrangements, (we have not the particulars) he was taken ill, and died in two or three days, without having possessed sufficient strength to arrange his affairs. As the young man was without any relatives in the city, the Scotch Thistle Society, of which he was a member, undertook, as is customary in such cases, the direction of his funeral and the settlement of his effects; and to this end appointed two respectable and capable gentlemen to act in the name of the Society. These gentlemen, after the funeral, returned to the house and proceeded to take an "inventory of all he possessed to the last." In examining a very large chest, containing wearing apparel, they accidentally discovered under the till a secret drawer, in which