

pointed out the manner in which they would receive it, by declaring that there shall be one or more Universities in the state—As their representatives, as the guardians of their rights, it becomes our duty to see those rights carried into effect, and of consequence to afford the necessary means of support to an institution which has been so peculiarly their care.

The Legislature which sat at Fayetteville in '89, and which inobedience to the Constitution, established the University, constituted the Trustees a body politic. A grant made to such a body is in law considered as sacred as one made to an individual, therefore when the Legislature vested in the Trustees the escheated property, they had all the rights, title and interest in it, that an individual could have had under such a grant—I presume this House will seriously reflect upon the consequences before it assumes to itself the power to take from individuals their estates, unless forfeited to the State in due course of law, the result of consequence would be, that if the Legislature have not constitutionally the power to take to themselves the estate of individuals, they cannot have the right to take from this corporate body, which by law is placed upon the same footing with an individual, the escheated property which the act of '89 vested in them.

A grateful sense sir, of the improvements which my slender faculties have received from this much revered Seminary—my pride as a native of the State, and the love I bear my Country, have combined in calling forth from me the observations I have made—I have to lament that a bill so replete with good has not met with an abler advocate; but I doubt not that the determination of the House will evince that a bill calculated to contribute so much to the equal distribution of science among all classes of People requires but little support.

The yeas and nays were called for and agreed to be taken.

Mr. MASK supposed that every gentleman in the house had made up his opinion on this subject, and that therefore it was unnecessary to trouble them with any observations against the present bill. The Legislature had placed a power in the hands of the Trustees which they had abused, and therefore thought proper to take it from them again. He did not think it would be right to restore it, and hoped the bill would not pass.

Mr. J. G. WRIGHT, expected that if any gentleman had risen in opposition to this bill, he would have advanced some substantial reason why it ought not to pass. He did not expect such a reason would have been offered as that made by the Gentleman who had just sat down. When examined, what is it? "We have seen the conduct of these Trustees heretofore, and that conduct has been against the interest of the State." This is mere assertion. He has not shown wherein the Trustees have acted improperly. Except gentlemen bring forward reasons in support of their opposition to this bill, that opposition cannot surely avail them.

Though this measure had been under the consideration of former Legislatures, this Body, in which are a great many new members, may consider the subject in a very different light from that in which it had been formerly viewed. (The object of this bill, Mr. W. stated to be, to restore to the University the remnant of the escheated property which had been originally granted to it. A fund which is now in the possession of individuals who have no right to it, and from which the State at present derives no benefit. The passing of this bill will not, therefore, take any thing from our Treasury.) But few estates now escheat. If a foreigner die, and leave any relations behind in this country, his estate goes to them; an estate escheats only where a foreigner dies, and leaves behind him no kin in this country. Future escheats, therefore, come scarcely within the limits of probability. Referring, said he, to the books of the Treasurer and Comptroller, since the repealing law past, and in vain will you attempt to discover the amount paid into the Treasury by the Commissioners of Escheated Property. No, this property does not bring any thing into our Treasury. And is it not therefore better to take it out of the hands of persons who have no right to it, and place it in the hands of the Trustees of the University than to let it remain where it is?

This bill, being intended to restore to the University a small fund,

without in the least diminishing the resources of the State, what objection can be raised against it? A fund intended, not only to promote the interests of education, but also the interest of the State at large. No member will assert that this is not the case. It is generally admitted to be good policy in all governments, to promote education by every possible means; and more especially has it been thought good policy in Republican Governments. Popular opinion is the foundation of Republican Government. In the same proportion, therefore, that you enlighten that opinion, will you attach your citizens to it, by teaching them to support and avow the principles on which it is established. It is by education alone that our citizens can become independent and enlightened Legislators, upright and able Judges, great and eloquent Lawyers, pure and learned expounders of the Gospel. It is by enlightening our Youth that these benefits are to be secured. A measure of this kind ought to meet in every Member of this General Assembly, a friend, and not a foe.

No member will rise in this house and say, we will not encourage Education, or enlighten the minds of posterity. But they will say, and it is as heretofore been said, that this is not the proper way of promoting Education: but that schools ought to be established in every county. No member, said Mr. W. would more cordially join them than I would in promoting such schools. But how is this to be effected? Schools of this description cannot be established, unless proper persons can be found qualified to teach them. Is it not of importance, for the purpose of raising such characters as may at a future day preside over these schools, that our University be supported? At present, we are obliged to procure our teachers, either from some of the Northern States or from Europe. It would certainly be far better to have these characters raised within our own State, who would be possessed of our own habits and customs, than to have them prejudiced in favour of habits and customs inconsistent with our principles of Government. Those members, therefore who are advocates for Country Schools, ought also to be advocates for the present bill in favour of the University.

Mr. W. had hoped, that though this measure had heretofore been unpopular; that the Legislature observing, as the people generally, he trusted, must have observed, the great benefits resulting to the country from the University, a majority would now be in favor of it. He had seen young men come amongst us from this institution, and enter the different walks of life. Some of them had become members of this Legislature; and the character and conduct of these young men have had a tendency to give popularity to the Institution, and men without the limits of this house, who were formerly opposed to it, are now fond of it. And it needed no prophetic spirit to tell, that, one day, it will not only become the darling of the Legislature, but the pride and ornament of our country.

Mr. W. could not see on what ground the gentlemen who said would pass to this bill, had founded their objections. They cannot shew that it will take any thing from the pockets of our constituents; or that the funds asked for it, will, if not granted, be applied to an useful purpose.

(When our Constitution was formed the people declared, that it was of the first importance that the minds of our Legislators should be enlightened. In vain will it be attempted to carry the injunction of the Constitution into effect by erecting the walls of an University, if you give it funds to-day, and take them away to-morrow. This is a departure from the constitution. He hoped, therefore, for the honour of our country, and that we might wipe away a stigma which has attached to our Legislature for having broken her solemn engagements with the Trustees of this Institution, that this bill would pass. When the law was enacted incorporating a body of men to direct the affairs of the University of North-Carolina, these escheated estates were granted to them and their successors. This was a right vested; and a right which the Legislature could not take from them. Under the belief, however, that they had the power (and perhaps they had) the General Assembly in the year 1800 passed a law to repeal the law, making this grant. But it is known to be contrary to the nature of all obligations whatever, that a person should make a gift, and afterwards recal it. To shew that if

the General Assembly has heretofore been misled, that we are now willing to do right, let us now repeal this law; and unless some strong reasons should be offered against this bill, he trusted a majority would say IT SHALL PASS.

[The remainder of this debate is our next.]

(This bill was rejected, 61 to 56. The yeas and nays were as follow.)

YEAS. Allison, Bryan, Brownrigg, J. Bright, Bludworth, Bozman, Carter, J. Cochran, R. Cochran, Cator, Campbell, Christopher, W. Cherry, Dobson, Easton, Edmunds, French, Grist, Hooks, Harris, Henderson, Hawkins, Hall, Harwell, Harvey, N. Jones, E. Jones, J. Jones, Kilpatrick, Leonard, Lowrie, M. Moore, Moody, Morgan, M'Canne, J. Moore, M'Neill, Mouring, Molten, Nash, Perry, Pearce, Pearson, Parker, Phifer, Richardson, Reading, Rhodes, Robards, Spencers, Turner, W. Williams, Whitaker, Woodlie, Wright, Yancey. 56

NAYS. Allen, Alexander, Arnold, Byler, A. Bright, Brasher, Bullock, Brown, Barrow, Calloway, J. Cherry, Cooke, Dunkin, Davidson, Erwin, Farrar, Fonville, E. Foy, Fordham, J. Foye, Fagan, Griffin, Gentry, Headen, Holt, Huggins, Harrol, Horn, Hunt, Hulme, Hornbuckle, Jordan, Johnston, Knight, Lea, Lanier, Love, Leckart, Maske, May, Mitchell, M'Clenan, Mobley, Ogilby, Pulliam, Rabourne, Small, Simmons, Sawyer, Steed, Scales, W. Smith, J. Smith, Thompson, R. Williams, J. Williams, S. Williams, N. Whitehead, Witherow, Webb, Young. 61

Tuesday, Dec. 4

The name of Benj. Smith, Esq. was withdrawn from the nomination for Senator of the United States.

Whereas certain commissioners have been appointed by a resolution of the State of Virginia for the purpose of conferring with the Legislature of North-Carolina, on the subject of cutting a navigable canal from Roanoke to Meherrin river, and from Bennett's creek to Nansmond river; and whereas the said Commissioners are now waiting upon the present Legislature for the above purpose.

Resolved therefore, that a joint committee of both houses be appointed to confer with the above commissioners on the aforesaid subject, and that they report by bill or otherwise, and that Mr. J. Moore, Lowrie, J. Cochran, W. Hawkins, J. Jones, Robards, Wright, R. Cochran, be a committee on the part of this house.

Messrs. Martin, Wellborn, Montgomery, and Little were appointed for this purpose on the part of the Senate.

The bill to amend an act passed in 1803, to raise the jurisdiction of Justices of the Peace, out of Court, was committed to a select committee of this house, consisting of Messrs. Love, Nash, and Brownrigg.

Mr. E. Jones, from the committee appointed to superintend the balloting for a Senator of the United States reported that Montfort Stokes, Esq. was elected.

The following bills were presented.

By Mr. Nash, a bill to cede to the United States the jurisdiction of the land therein mentioned; which received its first reading.

By Mr. Brownrigg, a bill to restore to credit James Penmenter, of Anson County; which was referred to the committee of propositions and grievances.

By Mr. E. Jones, a bill directing in what cases the clerks of the several county Courts shall be compelled to issue process.

By Mr. a bill to repeal the second section of an act to authorise and empower the field officers and Captains of the militia of their respective counties, to appoint the place or places for holding their separate regimental muster in certain cases, so far as relates to Craven and Carteret.

By Mr. French, a bill making further compensation to surveyors in the county of Onslow.

By Mr. J. Foy, a bill to repeal part of an act to empower the County Court of New-Hanover, to lay a tax for the purpose of destroying the vermin therein mentioned; for altering one of the places of holding the annual elections in the county of New-Hanover, and to amend an act to encourage the destroying of Wolves, wild Cats and Bears, in the County of Carteret, so far as the said act relates to the County of New-Hanover. These bills severally passed their first reading.

Received from the Senate a message proposing to ballot to-morrow morning for a Secretary of State, Treasurer & Comptroller, and nominating for these several offices, Wm. White, John Haywood, and John Craven, Esquires.—Agreed.

Resolved, that it shall be the duty of the clerks of either house in which shall remain any bill, petition or resolution referred to a select commit-

tee, to furnish the member first named on such committee, with a list of the names of the other members composing the same, together with all the papers referred. And that it be the duty of the member receiving the papers, to convene the committee for the purpose of acting thereon.

Resolved, that no bill of a private nature be received into the house after Monday next, and that Saturday next be set apart for the purpose of appointing Justices of the Peace and Militia Officers.

Received from the Senate, a bill for repealing part of the laws now in force for the recovery of debts of 30 pounds as respects the stay of executions in certain cases, which was referred to the committee above appointed on this subject.

Received also the following bills, which passed their first reading:

A bill to repeal an act to compel the Clerk of Surry County Court to keep his office at or within two miles of the Court house;

A bill to advance the administration of justice;

A bill directing where the upper election in the County of Ashe shall be holden in future;

A bill to amend an act respecting the fines of County Court Jurors.

A bill to establish a separate election in the County of Moore;

A bill to amend an act passed in 1802, granting two separate elections to the inhabitants of Johnson County, and to establish two other separate elections in said county;

A bill to authorise the wardens of the poor of the county of Perquimons to lay a higher tax than heretofore, and to regulate the proceedings in certain cases;

A bill to authorize the officers of the second regiment of militia of Rowan county, to fix the places of holding the general musters in each of the said regiments.

A report from the Secretary, Treasurer and Comptroller to whom was referred the consideration of the land laws of this State, was laid before the house, which was accompanied by a bill entitled "a bill granting further time to pay the purchase money to the State on the entries of land therein mentioned, and fixing the times when the purchase monies on all entries which shall be made after the first day of January, 1805, shall be paid into the Public Treasury;" which passed its first reading.

Wednesday, Dec. 5.

The Senate informed the house by message, that they had rejected the bill directing in what case the Clerks of County Courts shall be compelled to issue process.

The following bills were presented:

By Mr. Nash, a bill for the further limitation of actions;

By Mr. Brownrigg a bill to amend an act to prevent excessive usury, passed at Edenton 1741;

By Mr. Wright, a bill for the relief of foreign seamen brought into the port of Wilmington; which severally past their first reading.

Received from the Senate, the following bills, which were read the first time:

A bill granting to the inhabitants of the county of Surry the privilege of separate elections in the town of Huntsville;

A bill to amend and repeal in part an act passed in the year 1789, to establish an University in this State;

A bill making further compensation to the Jurors who may attend the County Court of Halifax;

A bill to alter the time of holding the County Court of Warren;

A bill to empower the Captains in the different counties of Richmond, Robeson and Montgomery to appoint Patrollers.

Mr. Horn, from the balloting committee, reported that John Haywood was elected Treasurer, Wm. White Secretary and John Craven Comptroller.

Received from the Senate, a bill making further compensation to the jurors who may attend the Superior Court of Hillsborough district, which was referred to the members of Assembly from the the counties composing that district.

Thursday, Dec. 6.

The following bills were presented:

By Mr. Hudgins, a bill to establish the boundary line between the counties of Pasquotank and Perquimons;

By Mr. M'Canne, a bill to amend an act passed at Raleigh in 1802, and an act passed in 1803, granting separate elections in Duplin;

By Mr. Robards, a bill to amend the 20th section of an act passed 1784, entitled "an act to prevent the exportation of unmerchandise commodities;

By Mr. Rhodes, a bill to alter the place of holding separate elections on the south side of Neuse River, in Wayne county;

By Mr. Barrow, a bill to prevent disputes in delivering oak lumber, as far as relates to staves and heading;

By Mr. Brasher, a bill to emancipate negro Bristow;

By Mr. Davidson, a bill to amend the several professional laws now in force in this State;

By Mr. J. Cherry, a bill to empower the county court of Martin to lay a tax on the inhabitants of said county, for the purpose of building a house for the reception and employment of the poor thereof, and for other purposes;

By Mr. Fagan, a bill to incorporate the town of Hamilton;

By Mr. Nelson, a bill to establish a separate election at the school house on the west side of Adams Creek in the county of Craven;

By Mr. Small, a bill laying a tax in the several counties in the district of Edenton, for the purpose of building a goal for said district, and the county of Chowan, which was referred to the members representing the several counties composing the district of Edenton;

By Mr. Hunt, a bill to repeal an act making compensation to the county court jurors of Rowan and Carteret, so far as respects the county of Rowan.

All which were read the first time and passed.

Received from the Senate, a bill to amend an act for appointing commissioners, to extend the boundary line of this state, and the state of South-Carolina;

A bill to raise a revenue for the payment of the civil and contingent charges of government for the year 1805;

A bill to appoint and empower commissioners to contract with any person or persons for the purpose of opening and establishing a turnpike road, to pass thro' part of the territory belonging to the Cherokee Indians; and

A bill to amend the several laws heretofore passed respecting the trial and punishment of slaves.

All which bills passed their first reading.

The committee on the representation of the Secretary, Treasurer and Comptroller, reported, that after a conference with the above officers they recommend the passage of a bill accompanying their report, entitled "a bill to repeal part of the 14th clause or section of an act to remedy certain inconveniences arising under the present land laws," passed in 1796, which was accordingly read the first time.

The bill to repeal so much of the 10th section of an act passed in the year 1795, entitled "an act to amend the laws heretofore passed concerning Court houses, and prisons, and to provide for the safe keeping and humane treatment of persons in confinement," as directs the manner of paying guards, and to direct how, in future, compensation shall be made, was passed its second reading; the yeas and nays, being required, were 84 to 79.

Friday Nov. 30.

The following bills were presented.

By Mr. Grist, a bill to exempt all regular bred physicians or practitioners of physic, from serving as jurors either in the County or Superior Courts;

By Mr. Allison, a bill to alter the divisional line between the counties of Mecklenburg and Cabarrus.

Mr. Bozman, a bill to establish a separate election in the County of Washington;

By Mr. R. Cochran, a bill to empower Dolphin Davis, to receive storage of tobacco, inspected and deposited in such warehouse or