



AND

North-Carolina State Gazette.

Ours are the plans of fair and lawful peace,
Unwarpl'd by party rage, to live like brothers

MONDAY, DECEMBER 1, 1864

No. 374

VOL. VIII.

General Assembly.

HOUSE OF COMMONS,

Monday, Nov. 24.

Four members appeared. The following bills were presented: By Mr. Jonas Williams, a bill to ascertain the toll which shall be allowed to millers in the county of Greene; Mr. King, a bill to alter the manner of holding elections in the county of Sampson; Mr. Law, granting a separate election to the inhabitants of Bertie; Mr. F. X. Martin, a bill to authorize Charles Williams, sheriff of Craven, to collect arrears of taxes; Mr. Slade, a bill to amend the several acts regulating the descents of real estates. Received from the Senate, A bill to establish a separate election at the house of Christian Luther in Randolph; A bill for the better regulation of the river Yeopim, and to prevent imposition; A bill to alter the place of holding the separate elections in the county of Charham; A bill to authorize the Executors of Solomon Alcock, late sheriff of Currituck, to collect arrears of taxes; The bill for revising the common law was rejected on its second reading. A message informed the Senate, that Messrs. Troy, Ward, Terrel and Caldwell, were added to the committee of propositions and grievances.

Tuesday, Nov. 25.

The following bills were presented. By Mr. Dowd, a bill to alter the time of holding the separate elections in the county of Moore, and to establish another separate election in said county; Mr. Slade, a bill to appoint and incorporate Trustees of the Episcopal Church in the town of Edenton, and for other purposes; Mr. Hoyle, a bill to provide for building a new court house, prison and stocks in the county of Lincoln; Mr. Lowrie, a bill to enable Jas. Neale, late sheriff of Mecklenburg, to collect arrears of taxes; Mr. Houston, a bill to enable Jas. Young, late sheriff of Cabarrus, to collect arrears of taxes; Mr. Rhodes, a bill to amend the 19th section of an act for the better care of orphans, and security and management of their estates, passed in 1762; a bill to amend the first section of an act to explain and supply the deficiencies of certain acts, respecting sales made by Executors and Administrators, also the 5th section of an act concerning proving wills and granting letters of administration, &c. and a bill to amend the act for the better observation of the Lord's day, and for the more effectual suppression of vice and immorality. Mr. Richardson, a bill to repeal the fourth section of an act passed in 1773, for the better regulation of Elizabeth town; Mr. G. L. Davidson, a bill to authorize Robert Worke, late sheriff of Iredell, to collect arrears of taxes; Mr. Webb, a bill to empower Michael Gainey, late sheriff of Richmond, to collect arrears of taxes; Mr. R. Williams, a bill directing where the lower separate election in county of Ashe shall be in future held.

Received from the Senate,

A bill to establish a separate election in the district of Woodstock, in Hyde county; and a bill for a separate election in Burke county. The resignations of Arthur Wiggins and Lewis Daniel, Lieutenant-colonel Commandants of Halifax county; and of Leonard Henderson, 1st Major of Lincoln county, were accepted. Messages to the Senate informed that body of the addition of J. G. Wright to the committee on the Governor's message; and of Messrs. Baugher, Walker, Law & McGuire being added to the committee on Finance and Alimony. A message to the Senate proposed the consolidation of all the bills concerning the collection of the arrears of taxes into one bill.

Another message proposed that the committee appointed to confer with the Secretary of State respecting the issuing of certain grants, be directed to report if any, and what amendments are to be made in the land laws.

The order of the day, which was the bill recommending the Court System, by introducing into every county a superior court was called for. This was objected to by those opposed to the measure, as the printed bill had been laid upon the table only yesterday, and they had not, from other engagements, been able to attend to it. They hoped, at least, one day's notice would be given, before so important a bill was taken up. This, after some conversation, was agreed to, and the bill was made the order for to-morrow. Mr. Cameron then gave notice that when the bill was called up, he should move an amendment, which went to an extension of the present district system by increasing the number of districts to 15, which he would propose should be divided into five ridings. Mr. C. enumerated the manner in which he would class the counties, and most of the other details of his amendment.

Wednesday, Nov. 26.

Another member appeared.

A message to the Senate proposed adding Messrs. Bozman, Lindsay & Wynn to the committee to whom was referred the bill regulating pilotage; and one from the Senate proposed to add Gen. B. Smith to the committee on divorce alimony.

A message was sent to the Senate, adding the name of Gen. B. Smith to the nomination for a Senator to Congress.

Mr. Barrett presented a bill to alter the name of the town of Carthage, in Moore county, to that of Fagansville; and

Mr. Lindsey, a bill to alter the time of holding one of the separate elections in the county of Currituck and to establish two others.

Received from the Senate, a bill to establish a Bank in the town of Edenton; and a bill to prevent frauds and to amend the laws respecting Garnishees.

The second reading of the bill for the more uniform and convenient administration of Justice, being the order of the day, it was taken up and read; when

Mr. CAMERON moved the amendment of which he yesterday gave the house notice, viz. to strike out the whole of the bill, except the words "A Bill," and insert in its place a new bill for dividing the State into fifteen districts, making five circuits, to be called the Yadkin, Haw River, Roanoke, Neuse and Cape Fear Circuits, contemplating the appointment of one other Judge and one other Solicitor, and proposing a tax of 20s on every suit, to be paid by the party cast, as a fund for the payment of Jurors.

The Speaker put the usual question, "Will the house receive this amendment?"

Mr. FELIX WALKER hoped the house would not receive it, as he considered it as an indirect attack to defeat the original bill. He had an utter aversion to side-blows of this kind. He thought it would be much better for gentlemen to meet the bill fairly and openly. The bill before the house was no cunningly devised fable; it had been well matured by the people since the last session of Assembly, and it remained to be seen, whether the house would not support it in preference to a bill of yesterday, born as it were out of due time, which struck at the principle of the bill on the table; and which if agreed to, would destroy all hope of making the contemplated change in the administration of Justice. He hoped, therefore, the house would have firmness enough to reject the proposed 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 indirect attack on his favorite 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 favour 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 86 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 the greatest complaint against the British Government? It was that they attempted to deprive the people of this right, by transporting men to that country for trial. This being a strong ground of complaint, special care was taken to guard it against abuse in our constitution. 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 met the approbation of those 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 he felt somewhat indisposed, and as he expected 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. LOWRIE most heartily joined the gentleman from Orange in his last wish that moderation and good sense might prevail both in this and every other debate which might take place in this house. For his part, he entertained the highest respect for the talents and character of the gentleman who differed in opinion with him on this subject.

It has been said that the yeomanry of this country wish for a change in our present Judiciary. To this assertion some pretty severe remarks were made, which he would pass unnoticed. Have not the people of this country for 16 or 18 years past evidenced a desire for some change in our Judiciary? Every gentleman must recollect this to have been the case. This was strong evidence that there were defects somewhere, and that justice is not administered satisfactorily to the people. That he did not mean to allege anything against the correctness or the purity of the decisions of our courts. On the contrary, he believed the system to be free from corruption. It was generally allowed, however, that some amendment is necessary in our Judiciary system; gentlemen differ only as to the proper mode of making this correction. Will the proposed amendment, asked Mr. L., answer the wishes of the people? Will it remove the evils complained of? Every man who examines it, must see it will not. What is the evil? It is that the poor man has to attend the Superior Court at a great distance from home, at an expence which he cannot bear. This evil the amendment does not remedy. He was not sufficiently well acquainted with the geography of every part of the State to say what its operation would be, but in the part of the country with which he was familiar, it would not afford the relief desired. He believed but a small part of the people would receive any advantage from it. And if the expence of the proposed plan be considered it would operate nothing in its favour. As to the salary of the Judges, when taken into consideration with the other expences attending the Judiciary establishment, it is a mere drop in the bucket. The expence of Jurors to the present Superior Courts is 12,000 dollars a year, but which, by the proposed amendment, would be nearly doubled. It matters not, if a man be obliged to pay his money, whether the sheriff, lawyer or tavern-keeper gets it. The expence is the same.

The gentleman from Orange has said he is not solicitous about the details of the bill. That if any other arrangement can be made, he is willing to acquiesce in it. No

other arrangement can be made without changing the sites of the Superior Courts, to make the plan, convenient to the several counties, and a change of that kind will never be agreed to by the friends of the amendment. Therefore no change could be made in the detail to answer the purpose of bringing justice more convenient to the several counties.

It is candidly confessed by the gentleman from Orange, that it is the principle of the present system which he contends for; and it is well known to every member on this floor, that many of those who are in favor of the present amendment, would, if it were carried, vote against the bill thus amended, and so destroy the bill altogether.

With respect to the merits of the original bill little need be said. It is well understood, having been in the hands of the people for the last year. He did not think any other mode could be adopted than that of having a Superior Court in every County, which would afford equal and impartial Justice to the people at large. Nor said Mr. L. is this a new principle. If we go into South Carolina, we shall find the same thing in practice, and the people greatly enamoured with it. The State of Georgia, the State of Pennsylvania, and he believed several others, had adopted the same principle, and he could see nothing in it that could have an injurious effect on the community.

It has been said that the present court system being established by our Ancestors, who were more wise than the present Legislature (which will be allowed, if it will please the Gentlemen) ought not to be disturbed. But however wise the framers of this system might be, and however well it might be calculated for the people of that day, no one will say that the state of Society has not very much changed since that time; that the country is no longer so much more populous, and wealthy, the business of the courts increased, and the interests of men more liable to clash, and that therefore it may be proper to make a corresponding change in the court system. And though the present state of the community may not call imperiously for this change, yet the time is fast approaching when it will be absolutely necessary, and the legislature ought, in these changes, not only to have in view the present but future state of things, because every change of this kind is attended with some inconvenience, and it is necessary to make it in such a manner as to give the least possible shock to society. If the proposed bill were to go into operation, it would give no shock to the community. Nothing more would be necessary than for the clerks of the present Superior Courts to send their papers into the several counties, and the Judges to ride the circuits as prescribed. The county courts would go on as usual. And if it should be found, after the law had been in operation for some time, that it did not answer the purposes for which it was intended, every thing might return to its former course without producing any injury.

Viewing the subject in every point of light, he was decidedly in favor of the principle which carries a Superior Court into every county, as the only plan which can administer equal and impartial justice to all.

[The debate, which was protracted much beyond the usual hour of adjournment, will be continued. Mr. Lowrie was followed by Messrs. Steele, F. X. Martin, Norwood, Duffy and Wright in favour of the amendment, and by Messrs. Troy, and Cochran in opposition to it. Mr. Lowrie closed the debate; when the Yeas and Nays were taken on