

Laws of North-Carolina.

PASSED IN 1823.

(BY AUTHORITY.)

An Act to regulate the time of holding the Superior Courts of Law and Equity in the fifth Judicial Circuit.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same. That the times for holding the Superior Courts of Law and Equity in the fifth Judicial Circuit, shall be as follows, to-wit: of Moore county, on the last Monday in February, and on the first Monday of September; Montgomery, on the first Monday of March, and on the second Monday of September; Anson, on the second Monday of March, and on the third Monday of September; Richmond, on the third Monday of March, and the fourth Monday of September; Robeson, on the fourth Monday of March, and on the first Monday after the fourth Monday in September; Bladen, on the first Monday after the fourth Monday in March, and on the second Monday after the fourth Monday in September; Brunswick, on the third Monday after the fourth Monday in March, and on the fourth Monday after the fourth Monday in September; New-Hanover, on the fourth Monday after the fourth Monday of March, and on the fifth Monday after the fourth Monday of September; Sampson, on the fifth Monday after the fourth Monday of March, and on the sixth Monday after the fourth Monday of September; Cumberland, on the sixth Monday after the fourth Monday in March, and on the seventh Monday after the fourth Monday of September, in each and every year hereafter.

II. And be it further enacted, That the term of Cumberland Superior Court of Law and Equity shall continue for two weeks successively, whenever the business of said Court requires it; and in case the said Court shall sit longer than one week, the said Judge and Solicitor shall receive pay as for two Courts.

III. And be it further enacted, That all Sheriffs, Clerks and other officers, shall make their process returnable pursuant to this act, from and after the passage thereof; and that all process now in the hands of Sheriffs or other officers, may be returned pursuant to this act, and have the same effect, as if the said process had been so directed to be returnable.

An act to establish a Superior Court of Law and Equity in the County of Davidson, and to alter the time of holding the Superior and County Courts of Guilford, Rockingham and Caswell, the Superior Court of Stokes, and the County Court of Person.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That there shall be a Superior Court of Law, and Court of Equity opened and held at the town of Lexington, in the county of Davidson, on the third Monday after the fourth Monday in March next, and on the third Monday after the fourth Monday in September, and on the same days in each and every year thereafter, which courts shall have the same jurisdiction that the present Superior Courts of Law and Courts of Equity in the several counties in this State now have and exercise.

II. And be it further enacted, That the county of Davidson shall hereafter constitute a part of the fourth circuit, and the Judge and Solicitor who shall attend the Superior Courts in said County, shall be respectively entitled to the same pay for attending said courts, that they are now by Law entitled to receive for attending other Superior Courts in said circuit.

III. And be it further enacted, That a Clerk, and Clerk and Master in Equity, both men of skill and probity, and residents in the county of Davidson, shall be appointed for the same by the Judge attending the first term of said Court, they shall give bonds and security, as directed by Law for such officers, and take the oath prescribed for their qualification. The County Court of Davidson shall appoint thirty Jurors to attend the said Court in the same manner as Jurors are appointed to attend other Superior Courts in this State.

IV. And be it further enacted, That all civil causes depending in the Superior Court of Law and Equity for Rowan, the Plaintiffs in which causes reside in Davidson County, and also all actions of ejectment and trespass, quare clausum fregit, for or concerning lands in Davidson County, shall be transferred, with all process and proceedings therein, to the Superior Court of Law hereby established for the County of Davidson; and the provisions of the act passed in the year eighteen hundred and six, entitled "An act amendatory and supplementary to an act, entitled an Act for the more convenient administration of Justice, and all other acts supplemental thereto," for the appointment, summoning and attendance of Jurors, for the transmission and receipt of the records, proceedings and papers, for docketing and bringing the causes forward for trial, for summoning witnesses, for issuing original and mesne process prior to the first term of Davidson Superior Court, and generally for all other purposes relative to the preparation for trial and determination of the business of said Court, be, and the same are hereby extended to the Superior Court of Davidson County; the neglects and failures of the several officers of the Superior Courts of Rowan, and of the County Courts of Davidson, shall be subject to the same penalties and forfeitures, as are prescribed for similar neglects and failures by the said act, and the said officers shall be entitled to the same fees for their services as are established by the said act for like services.

V. And be it further enacted, That the Superior Courts of Law and Equity for the Counties hereinafter mentioned, shall be opened and held in each and every year, on the days following, to-wit: the Superior Court for the county of Stokes, shall be opened and held on the fourth Monday after the fourth Monday of March, and on the fourth Monday after the fourth Monday of September; the Superior Court for the county of Guilford, shall be opened and held on the fifth Monday after the fourth Monday of March, and on the fifth Monday after the fourth Monday of September; the Superior Court for the county of Rockingham, shall be opened and held on the sixth Monday after the fourth Monday of March, and on the sixth Monday after the fourth Monday of September; and for the county of Caswell, on the seventh Monday after the fourth Monday of March, and on the seventh Monday after the fourth Monday of September; and all proceedings and process of every kind pending in, or issued from the said last mentioned

Superior Courts, shall stand continued and be returnable to the days by this act prescribed for holding the same respectively, any law to the contrary notwithstanding.

VI. Be it further enacted, That after the next terms of the county Courts of Pleas and Quarter Sessions of the counties of Person, Guilford and Rockingham, they shall be held for the county of Person, on the third Monday in May, August, November and February; for the county of Guilford, on the fourth Monday of May, August, November and February; and for the county of Rockingham, on the first Monday of June, September, December and March, in each and every year; and to which times all the process and proceedings of the said courts respectively shall be made returnable.

VII. And be it further enacted, That the sessions of the Courts of Pleas and Quarter Sessions for the county of Davidson, shall be opened and held on the third Monday of March, June, September and December, in each and every year, to which times all the process and other proceedings of said court shall be made returnable; provided that this act shall not be in force until after the next session of the Court of Pleas and Quarter Sessions for said county.

VIII. And be it further enacted, That all acts and parts of acts, inconsistent with the meaning of this act, be, and the same are hereby repealed; and this act shall be in force from and after the ratification thereof.

Eighteenth Congress.

IN SENATE.

MONDAY, JANUARY 26.

Mr. HAYNE, of South-Carolina, from the Select Committee to whom was referred the resolution in relation to an intended visit of the Marquis DE LA FAYETTE to the United States, reported the following amended Resolutions:

The Marquis DE LA FAYETTE having expressed his intention to visit this country:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be requested to communicate to him the assurances of grateful affection and attachment still cherished for him by the Government and People of the U. States.

And be it further Resolved, That, whenever the President shall be informed of the time when the Marquis may be ready to embark, that a National ship (with suitable accommodation) be employed to bring him to the United States.

The Resolutions having been read—

Mr. Hayne said, that the committee to whom these resolutions were referred had directed him to report them in a shape which it is believed, will meet the wishes, and accord with the views of every gentleman in this House. I may, said Mr. H. be permitted, individually, to indulge this hope, not only from the character of the proposition, but also from the unanimity which prevailed in the committee, composed, as it was, with the single exception of him who now addresses you, of statesmen and soldiers of the Revolution; men who have fought and bled, or suffered in the cause of their country, and whose opinions are always entitled to the highest respect.

I have seldom, said Mr. Hayne, had a more delightful duty to perform, than that of reporting these resolutions in honor of the MARQUIS DE LA FAYETTE—resolutions intended to give expressions to the feelings of veneration and attachment which the people of the U. States have always cherished for that gallant soldier and devoted patriot. After an absence from this country of nearly half a century, his services are still "freshly remembered," whilst his virtues are enshrined in every American heart. There are men still left amongst us, who were his companions in arms, or who, from their high stations in the public services witnessed his exertions in the field. I beheld some of them now surrounding me, occupying seats in this Hall, and honoring by their presence, the councils of their country; men whose heads have indeed been bleached by the revolutions of many winters, but whose hearts time has had no power to chill. Their bosoms still swell with patriotic emotions, and the warm current of unbroken affection rushes strongly towards the friends of their youth, and their old companions in arms. Perhaps there exists no stronger tie than that which binds the patriot and soldier to those with whom he has shared common dangers, and achieved common victories. Such men, said Mr. H. will excuse me, the members of this honorable body will indulge me, while I dwell for a few moments on the character and services of the gallant La Fayette. We are, it is true, no strangers to his history, yet we may recall some of the incidents of his life, with perfect satisfaction, as few men have ever exhibited so much purity in motive, and so much virtue in conduct.

The era of the American Revolution found the Marquis La Fayette a young man, (only nineteen years of age) in attendance at the court of his sovereign the King of France. A nobleman by birth, of a distinguished family, and the heir to a large fortune, he might be said, in the language of Lord Byron, to have been "bred an aristocrat."—That the earliest reflections of such a man should have taught him the value of liberty; that the earliest efforts of his ambition should have made him aspire to the character of the benefactor of mankind; that his very first step should have placed him by the side of patriots and heroes who were fighting the battles of freedom, establishes beyond all question that he was a man "cast in no common mould."—While other noblemen of his age and standing were swelling the pomp and pageantry of power, he resisted the blandishments of the Court; closed his breast against the influence of pleasure; tore himself from his kindred and his native land, to vindicate in America the rights of man. It is recorded by the historians of the day, that the American Commissioners at Paris, in consequence of an unfavorable turn in the tide of our affairs, strongly dissuaded the youthful soldier from taking that decisive step, and it is positively asserted, that the French monarch, so far from encouraging the enterprise, actually issued orders for his arrest. They were unavailing; for what obstacles are insuperable to the noble in soul—the firm in heart—the steadfast in purpose? La Fayette fitted out an expedition at his own private expense, and embarked himself and his fortune in the cause of freedom. He arrived at Charleston early in 1777, and, notwithstanding his extreme youth, was immediately appointed by Congress a Major General in the American army. From that period to the termination of the contest, he performed, with extraordinary zeal and fidelity, all the duties incident to his exalted station, and proved himself, on all occasions, a high-minded and accomplished gentleman, a gallant soldier, and a consummate Captain. At the battle of Brandywine, he freely shed his blood in our service, &c. in the campaign of 1781, he was entrusted by Washington with the command of a separate army for the defence of Virginia. He filled that high duty to the perfect satisfaction of the commander in chief, and to the admiration of the whole country. It is sufficient praise to say that, on that occasion, he, with a very inferior force, baffled the skill, and frustrated the plans of the "all accomplished Cornwallis."

All who knew La Fayette during the Revolution, bear united testimony to his uncommon merit. The histories of that day are filled with instances of his gallantry and good conduct. But why multiply proofs? His best eulogy was embraced in a single sentence: Washington was his friend! Witness the letter written by his own hand, while President of the United States, to the Emperor of Germany, (soliciting the release of the Marquis from the prison into which he had been thrown,) breathing in every line a brotherly affection: and in which he declares, "that his friendship for the Marquis La Fayette has been constant and sincere." Washington never forgot—he never ceased to love him; and his last will affords evidence that he cherished for him feelings which not even the prospect of death could extinguish. La Fayette did not leave our shores until he had seen us a free and independent nation; and from that moment to the present, he has claimed, as the proudest of his titles, that of an American Citizen.

I will pass over the troubles in which he has been constantly involved since his return to France, with the single remark, that it will be recorded by the candid historian of this eventful age, that amidst scenes of blood, in which unhappy France has been steeped, the hands of La Fayette were never stained; and though surrounded by temptation before whom the best hearts and best minds of Europe have fallen, he has held fast integrity to the end. The U. States have at no period been unmindful of the debt which they owe to the Marquis La Fayette. They have recorded their gratitude, not merely by repeated votes of thanks, but by more substantial deeds; nor should it ever be forgotten that it was an American citizen who opened the doors of his du geon at Olmutz.

Let it not be supposed that these resolutions are superfluous, or that they add nothing to the expressions of the national gratitude. The moral effect of measures of this character is very great. They act on public opinion, (that lever by which the modern world is moved;) they purify public feeling and enoble public sentiment, teaching the rising generation the great lessons of patriotism and of duty. Republics have been charged with ingratitude, and Europeans, ignorant of the whole structure of our government and the course of our policy, have supposed that the charge is justified by our own example. But, when it shall, at some future period, come to be known abroad how the United States have, on all occasions, acted towards the Marquis La Fayette; when it shall be understood that, in addition to the other proofs of our gratitude, (which I am not disposed here to enumerate,) we approached him in his old age with the expressions of our affectionate attachment; it may perhaps be acknowledged, that there can be no better inheritance than the gratitude of a free people.

There is another view of this subject, said Mr. H. entitled to some weight. It is the moral effect of the proposed measure on our own country. No one acquainted with the American character, can doubt that the Marquis La Fayette will meet with such a reception as is due to the friend of Washington. He will be met by the few survivors of the Revolution, (his former companions in arms) with the warmth of an old and tried affection, (he will find in the hands of some of them, the treasured memorials of his ancient friendship) he will be greeted with enthusiasm by millions of freemen. How enviable will be the feelings of that venerable man, when, in traversing this great republic, he shall see every where the fruits of order, peace, political and religious liberty, unexampled prosperity and unequalled happiness; and when he shall feel, and know, and hear it every where acknowledged, that these blessings are in part the fruit of his efforts!

The Marquis La Fayette has signified his wish to visit our country. He must not be suffered to approach it as an undistinguished stranger. He must come: protected by the flag under which he has so often fought, and so often conquered.

These resolutions are worthy of the National Legislature; they will find a response in every American bosom. I hope, I trust, they will pass the Senate as they have done the House of Representatives, by an unanimous vote.

The happiest moment in the life of the Marquis La Fayette, was probably that, when finding that France had acknowledged the independence of the U. States, he rushed into the presence of Washington, and throwing himself on the bosom of his friend, burst into a flood of patriotic tears. But should we pass this resolution, he is destined to experience still more exalted happiness, when he shall be assured by the unanimous vote of the American Congress, "of the grateful and affectionate attachment still cherished for him by the government and people of the U. States," and when he shall be hailed by ten millions of freemen as their benefactor.

After a few observations from other gentlemen, the question was taken on the Resolutions, and they were agreed to unanimously.

TUESDAY, JAN. 27.

The bill to abolish imprisonment for debt was taken up, and made the order of the day for Friday next.

The Senate proceeded, as in committee of the whole, to consider the bill authorizing an additional number of Sloops of War, for the naval service of the United States. On motion of Mr. Lloyd, of Mass. the bill was amended, by inserting the words, "as soon as suitable materials can be procured," and, also, by striking out the clause respecting the sum to be appropriated. On motion of Mr. Hayne, the bill was postponed to Friday next, and made the order of the day.

WEDNESDAY, JAN. 28.

When the Senate came to order, the Vice-President stated that a melancholy event which had occurred since the session yesterday, (the death of a relative of his family,) would prevent his attendance this day—and Mr. Gaillard was called to the chair.

The bill for the relief of Hanson Kelly, was taken up, as in Committee of the whole, reported to the Senate without amendment, and passed to be engrossed and read the third time.

The Senate then proceeded, as in Committee of the whole, to consider the bill the better to secure the accountability of public officers. Mr. Holmes, of Maine, stated the object of the bill, in detail—and, on motion of Mr. Parrott, it was postponed, and made the order of the day for Monday next.

THURSDAY, JAN. 29.

The bill for the relief of Hanson Kelly, was read the third time, and passed.

The resolution reported by the Select Committee on the several amendments to the Constitution, which provides that no person shall be eligible to the Presidency for more than eight years, was taken up for consideration, in Committee of the Whole.

Mr. Dickerson spoke in favor of the amendment. He thought such a check necessary to the preservation of the purity of our government, as was evinced by the history of ancient and modern nations—as congenial to the principles of our own institutions, and in conformity to public opinion.

Mr. Holmes, of Maine, thought there could be no danger in adopting an amendment like this, which goes to restrain power—whatever objection might be urged against increasing the authority of government. At this time, it was peculiarly proper to consider such a subject; when there is no danger

from the want of this restraint. When we have a President, popular, young, ambitious, and with all the influence attached to his office, he might offer imaginary dangers, as an excuse for attempting at re-election. The restriction he considered a salutary one.

Mr. Barbour did not rise to oppose the amendment; for he thought favorably of it, but he rose to express the views which he believed were entertained by those who proposed the amendment. It would be perceived that the resolution, at present, proposes that no person, after having been twice elected President, shall be again eligible. Mr. B. made some remarks upon this restriction, and concluded by moving to amend the amendment, so as to provide that no person should be elected for more than two terms successively. This provision, he thought, would sufficiently do away the apprehension of any danger from continuity in office.

Mr. Dickerson opposed the amendment of Mr. Barbour. He thought that no individual ought to be elected to the highest office of the Government, in any case, for more than two terms.

Mr. Barbour replied. He contended that, after one election, and a subsequent return to private life, the individual ought not to be disfranchised, and deprived of the right to be elected. He instanced the example of the distinguished individuals, at present living, who have filled the office; living, too, as far as he could ascertain, from his intimate knowledge of all but one of those individuals, and from having read the public writings of the other, with their mental powers unimpaired by the ravages of Time. Such men, he thought, ought not to be proscribed from a re-election.

Some further debate took place, between Messrs. Dickerson, Barbour, & Holmes of Maine.

Mr. Macon said, the example of the illustrious men who had filled the office of President, clearly showed their opinions on this subject; that several of them had been solicited to take the office again, but had declined it; that all men who rendered great services to their country, would inevitably meet with the love and gratitude of the people; that there was a time in the life of men advanced in years, when they begin to fear a failure in their faculties, but, when that time has passed, they lose all doubt of their capacity and competency. For this reason, there ought to be some restraints in the constitution, as to the time for which persons shall be eligible to the office of President. Mr. M. was in favor of the resolution as reported by the committee, in preference to the amendment proposed by the gentleman from Virginia.

The question was then taken on Mr. Barbour's amendment, which was lost.

The original resolution was then reported to the Senate, without amendment, and passed to be engrossed, and read the third time.

The resolution proposing an amendment to the constitution, in regard to the choice of Electors, was postponed till to-morrow.

After the consideration of Executive business,

The Senate adjourned till to-morrow.

FRIDAY, JAN. 30.

The resolution proposing an amendment to the Constitution of the United States, so as to provide "that no person, having been twice elected to the office of President shall again be eligible to that office," was read the third time, and the question on passing the same was decided by Yeas and Nays, as follows:

YEAS—Messrs. Barbour, Barton, Bell, Benton, Chandler, Clayton, D'Wolf, Dickerson, Eaton, Elliot, Finlady, Gaillard, Hayne, Holmes of Me. Holmes of Miss. Jackson, Johnson of Ky. Johnson of Lou. Kelly, King of Ala. Lanman, Lowry, Macon, McRaine, Mills, Noble, Palmer, Ruggles, Smith, Talbot, Taylor of Ind. Thomas, Van Buren, Van Dyke, Ware, Williams—36.

NAYS—Messrs. Edwards of Conn. Knight, Seymour—3.

So the resolution PASSED, and was sent to the other House.

The resolution reported by a Select Committee of the Senate, proposing an amendment of the Constitution of the U. States, in relation to the election of President and Vice President, and Representatives in Congress, was taken up for consideration as in Committee of the whole. The question was declared to be on a resolution proposed by Mr. Benton, as an amendment to that reported by the Select Committee. Mr. Benton's amendment proposes to divide the country into districts, each district having a vote for President and Vice President, that vote to be decided by the ballots of the people, in primary assemblies, without any intermediate electors; and in case of no choice by the people then to be decided by the House of Representatives, as at present.

Mr. Benton went into an able argument in consideration of the various other modes of election, and in support of that contained in his resolution. Before Mr. Benton had concluded, the Senate, on motion of Mr. Mills, (made in consequence of the apparent fatigue of the Speaker,) Adjourned to Monday next.