

To the Freemen of North-Carolina.

FELLOW CITIZENS,

A Member of your last General Assembly, who advocated and voted for the law which changes the method of appointing the Electors of President and Vice-President of the United States, asks the favor of your attention for a few minutes to a statement, which he proposes to make, of the motives which induced him, and he believes those who voted with him, to consider the change desirable.

The act of Congress apportioning Representatives among the States of the Union according to the last census, did not receive the approbation of the President of the United States, so as to become a law, till the 21st of December last; and was not known to the General Assembly during their session, which terminated on the 23d of the same month. It became necessary that the laws of the State then in force, directing the choice of Representatives and the appointment of Electors, should be acted upon in some manner by the Legislature, to accommodate them to the changes which were probably to take place in the numbers of each to which the State was entitled. The subject was postponed till late, in order, if possible, that such accommodation might take place during the session. Information was, however, at length received from Washington that the apportionment bill would probably not pass Congress in season for the State Legislature to make the necessary permanent arrangements before the next session. To prevent, therefore, your being called upon in August and November next, to make choice of an improper number of Representatives and Electors, a bill was introduced into the Senate by the gentleman of that House from Orange, Mr. Mebane, which was passed into the Law that has been the subject of so much abuse and misrepresentation.

There existed no difficulty nor difference of opinion concerning the proper course to be pursued as it related to Representatives. A simple repeal or postponement of the operation of the existing law, so as to prevent the Election from taking place in August next, was all that the case seemed to require. And no inconvenience, it was apprehended, would result from a repeal. Because, as the term for which the present members were elected would not expire before the 4th day of March next, and the time appointed for their successors to meet was the first Monday in December, 1813, the subject could as well be legislated upon at the next session of the General Assembly as at the last. For if there should be reason to expect a called session of Congress in the course of the year 1813, there would still be ample time between the meeting of the Assembly on the third Monday of next November, and the fourth day of the following March, to divide the State into Districts, and for the elections to be held so as that the new Members could be in readiness to take the places of the present members, if necessary, in a session to commence on the latter day. The earliest possible day on which they could be called upon to serve, if provision could have been made for their election in August next. The bill, therefore, introduced, as mentioned above, by the gentleman from Orange, provided for the repeal of the act of 1802 dividing the State into districts for the choice of Representatives—and directed that the Electors for the next choice of President and Vice-President shall be appointed by joint ballot of both Houses of the General Assembly; and in this form it passed into a law.

The misrepresentations of the enemies of this law render it proper in this place explicitly to declare, that it contains no provision for the appointment of Representatives by the Assembly. It may not perhaps be known to all, but the truth is, that a report has been industriously circulated that the law does contain such a provision. The writer does not recollect that he has met with such a charge published in the papers, but he has frequently, to his astonishment, heard it in conversation, and made by persons from whom he had expected better information of the contents of the act.

One thing more relative to the choice of Representatives. Neither the friends nor the enemies of the bill, while before the Legislature seem to have considered it possible that its intention and effect could be so far mistaken or perverted as to prevent filling a vacancy occasioned by the death of one of the Representatives from the State previously elected. The Journal of the House of Commons shews, that Mr. J. Cameron's motion on the second reading of the bill, voted for by all its enemies as well as by some of its friends, contemplated retaining so much of the bill as repealed the act of 1802 dividing the State into districts for the choice of Representatives: And Mr. Phifer's motion on the third reading, supported by very nearly the same votes, expressly contained these words—"That the aforesaid act directing the election of Representatives to Congress, be, and the same is hereby repealed." So that all the members of the House of Commons, without a single exception, appear by their votes to have considered that the provision in the Constitution, "When vacancies happen in the Representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies," does not require the aid of the Legislature to point out to what Counties writs of election should issue to fill a vacancy occasioned—for example, by the death of General Blount, chosen by the Counties of Edgecomb, Pitt, Beaufort, Hoke, Tyrrell and Washington. So far otherwise, that it does not appear a reason can readily be given, why, even if the Legislature had passed an act expressly prohibiting the Executive from issuing such writs, a Governor should hesitate to obey the Constitutional injunction, the Legislative prohibition to the contrary notwithstanding.

But to pass on to that part of the act which directs the appointment of Electors by the next General Assembly. It will not be contended here that this direction would be, if in opposition to the letter or spirit of the Constitution. But before sentence of condemnation is pronounced by you against this law as unconstitutional, I deem too highly of your candor and good sense to doubt your willingness to examine the subject.

The second article of the constitution of the United States, after declaring that the executive power shall be vested in a President, and the term for which he shall

hold his office, proceeds: "Each State shall appoint, in such manner as the Legislature thereof may direct, a number of Electors equal to the whole number of Senators and Representatives to which the State may be entitled in Congress." Upon the passage here quoted, it has been frequently observed by the enemies of the present law for appointing Electors, that the Convention which framed the Constitution did not intend that the Assembly, but that the People, should appoint the Electors—Because, in directing the choice of Senators, a choice intended to be confined to the Legislatures, that Body expressed themselves differently, thus—"The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof for six years." To the inference made from hence, it is a sufficient answer to state, that when the Convention meant to confine the choice to the people, as of Representatives, and to exclude a choice by the Legislatures, they have used a form of expression calculated precisely to obtain their object—Thus: "The House of Representatives shall be composed of Members chosen every second year by the people of the several States." It therefore evidently appears, it was not the intention of the Convention that the choice of Electors should necessarily be made by the People. But an examination of the words and form of expression used by the Constitution, in providing for the appointment of Electors, will conduct us more immediately to our object, in our endeavors to arrive at a correct construction of the part now to be considered. The words, "Each State shall appoint in such manner as the Legislature thereof may direct," appear in their most obvious meaning, and considered independently of their connection with other provisions, to contain no limitation upon the Legislature in directing the manner of that appointment. Take them in connection with other parts of the Constitution, and let us examine what change is produced. They contain an injunction upon the States respectively, to perform an act. And if it shall appear, upon looking through the Constitution, that in all other parts of that instrument, whenever a State is enjoined to act, or prohibited from acting, the command or prohibition applies invariably to the constituted authorities, and never to the People, we certainly shall have room to conclude, that the word State is not necessarily used in this instance in a sense different from that in which the same word is used in the same instrument on every other similar occasion. The Constitution does not contain many instances in which the States are commanded to act. Almost the only one besides that at present under consideration, is that part of the 10th section of the first Article which provides that the net produce of all duties and imposts, laid by any State on imports and exports, shall be for the use of the Treasury of the U. S.; which manifestly applies as an injunction upon the State Legislatures who, with the consent of Congress, shall lay such duties & imposts. There are many instances in which the States are prohibited from acting; of which the same 10th section contains a number: "No State shall enter into any treaty, alliance or confederation; grant letters of marque and reprisal; coin money, emit bills of credit, make any thing but gold and silver coin a tender in payment of debts," &c. &c. In all of which, and in every other that can be cited, the prohibitions to the States manifestly apply to their Legislatures, as the organs by which the States act upon these subjects.

But the word appoint, in the expression "Each State shall appoint," is still more forcible to shew that the Constitution does not intend that the selection of Electors shall be confined to the people—Because it may be asserted with confidence that the word appoint is not used in any instance, either in the Constitution of the United States, nor in the Constitution of any one of the individual States, as descriptive of a selection of persons to be made by the people for any purpose whatever. When a selection or choice is directed to be made by the people, the words descriptive of the operation, are invariably choose and elect. Is it not therefore fair to presume that the word appoint is in this instance used in a sense universally and without exception appropriated to it in all the constitutions, as well of the United States as of the individual States; and that instead of an injunction to choose or elect the Electors by the People, as contended for by the opponents to our Electoral Law, the Convention intended that the Legislators should be left at liberty to direct that the Electors should be appointed by joint ballot of both Houses of the General Assembly; as appointments are usually made under the State Constitution of North-Carolina and some others; or by the Governor and Council, as appointments are made in New Hampshire, Massachusetts, &c. or by the Council of Appointments, as in New-York; or by the Governor, as in Pennsylvania; or by the Governor and Senate as in Kentucky, Delaware, &c.; or by any other constitutional organ established & used in the States for the purpose of making Appointments; or, perhaps as has been done in some cases that the Legislatures may create an organ for the purpose of making the Appointments of Electors unknown to the Constitutions. In conformity with this last idea the act of the Legislature of South-Carolina of the 4th November, 1788, directing the appointment of Electors, provides "that they shall be appointed by the Legislature of this State on the first Wednesday of January next, or by such persons as shall be returned members thereof and shall attend on that day." So, the appointment of Electors for the State of North-Carolina made in the year 1792, was made by the Members of the Legislature divided into sections, and not by them collectively as a Legislature.

A further evidence of the meaning of the Constitution: It will not be conceding too much to the fidelity and patriotism of those distinguished men, among whom were Washington and Franklin, convened by the resolution of Congress of the 21st of February, 1787 for the "express purpose of revising the articles of Confederation," to suppose they were well acquainted with the provisions of the Articles of Confederation, and with the practice under them; nor to their prudence, to suppose that when, by long and uniform practice under a provision of the Articles of Confederation, a particular form of expression had acquired a settled and practical meaning, the Convention would not adopt the same form of expression

into the Constitution of the United States and intend it should convey an entirely different meaning. The fifth of the Articles of Confederation and perpetual Union begins in these words "For the more convenient management of the general interests of the United States, Delegates shall be annually appointed in such manner as the Legislature of each State shall direct, to meet in Congress, &c."—Under this provision, exactly in the words of the Constitution, the Legislature appointed the Delegates to Congress. They authorized the Executives to appoint them, &c. But in no instance is it known or believed that the people chose the Delegates to Congress under the Confederation. Nor can it be fair to suppose that the Convention meant to confine the choice of Electors to the people when they adopted a form of expression in prescribing the manner in which these appointments should be directed long universally received and practised under differently.

As further evidence of the meaning of this provision of the Constitution we may cite the understanding and practice of the States since its establishment. Many very respectable States have invariably appointed their Electors by their Legislatures. And it is believed that all did so which were in the Union when the first President was chosen. Massachusetts, Connecticut, Vermont, New-York, Delaware, South-Carolina and Georgia appointed their Electors by their Legislatures at the last Election.—Pennsylvania has repeatedly so appointed her Electors. In the year 1792 North-Carolina appointed by the Members of the Legislature as before described. The votes of Electors appointed by the Legislatures have been uniformly received and have determined the choice of President. Washington, Adams, Jefferson and Madison have all been elected by Electors appointed by the Legislatures of the States. And never was it discovered nor seriously alleged, till by the minority of North Carolina, that these things were done in direct opposition to the Constitution of the United States.

Therefore, from the words of the Constitution directing the appointment of Electors; from their analogy as used in this provision with the indubitable meaning of them in other parts of the same instrument, as well as in the Constitutions of the States and in the articles of Confederation; from the invariable practice of many of the States under the Constitution, the occasional practice of others, and the universal practice under the Confederation; and from hitherto universal acquiescence, it is pronounced not to be unconstitutional that the Electors of President and Vice President should be appointed by joint ballot of both Houses of the General Assembly.

A NORTH CAROLINIAN.

Sheriff's Sales.

WILL BE SOLD, In Morganton, Burke County, N. C. on the 28th day of August next, THE following Tracts of Land, or so much thereof as will be sufficient to satisfy the Taxes due thereon for the years 1810 and 1811, with the cost of advertising, &c. 50 Acres on the waters of Browning creek, the waters of the Catawba river, given in the name of John Bailey, for the year 1810, not given in for the year 1811. 50 Acres, given in the name of Nicholas Fry, on the waters of Browning creek, for the year 1810, not given in for the year 1811. 700 Acres, given in the name of Henry Miller, lying on the waters of the south fork of the Catawba river, in different tracts, for the years 1810 and 1811. 250 Acres, given in the name of Jonathan Howard, lying on Goughlas's creek, the waters of the South fork river, for the year 1811. 200 Acres, given in the name of David M'Daniel, lying on the waters of Lower creek, for the year 1810. 200 Acres, given in the name of John Baker, lying on the Double Branches, the waters of the Catawba, joining James Lowing, for 1811. 100 Acres, lying on Gillespie's Branch, the waters of the Catawba river, joining Tilman Walton's lands, as the property of Bridget Montgomery's heirs, not given in for the years 1810 and 1811. 300 Acres, given in the name of James Alexander, lying on the waters of the Upper Creek, for the year 1810. June 13. HUGH TATE, Shff. The lands advertised in the names of John Bailey and Nicholas Fry, will be double taxed, as not given in, according to law, for 1811; and those in the name of Bridget Montgomery's heirs, will be double taxed, as not given in for the years 1810 and 1811.

City Building Lots.

WILL BE SOLD, OR LET ON BUILDING LEASES, SEVERAL handsome LOTS, in good situations for Business, near the Court-house in Raleigh, and convenient to one of the best Springs in or about the City. Also for sale, About ninety Acres of Land within two miles of the City, about one half cleared. Apply to Gales's Book-store.

BY HIS EXCELLENCY WILLIAM HAWKINS, Governor, Captain General and Commander in Chief, in and over the State of North-Carolina.

A Proclamation.

WHEREAS I have received from the Secretary of State of the United States, an authenticated copy of an act of Congress, approved the 18th of June instant, declaring War to exist between the United Kingdom of Great Britain and Ireland and the dependencies thereof, and the United States of America and their territories: And whereas it is the indispensable duty of every State in the Union, with all the means in its power, to co-operate with the General Government in carrying on the War with the utmost vigor and activity:

I have, therefore, thought proper to issue this Proclamation, hereby requiring and enjoining all Officers, Civil and Military, in the State of North Carolina, according to the duties of their respective stations, to be vigilant in supporting his Country through the contest in which she is at present engaged:

And further, I do hereby earnestly exhort all the good Citizens of the State to abandon party prejudices and distinctions, and to give their united and vigorous support to such measures as may be adopted by the Constituted Authorities, as well for mitigating the evils of war to our own citizens, as to make it effectual against the enemy; and for restoring the blessings of Peace, upon grounds compatible with the honor, dignity and independence of the United States.

In testimony whereof, I have caused the Great Seal of the State to be hereunto affixed, & signed the same at the City of Raleigh, the 30th day of June, in the Year of our Lord one thousand eight hundred and twelve, and of the United States the thirty-sixth.

WILLIAM HAWKINS.

By His Excellency's command, WM. HILL, Secretary of State.

ADJUTANT-GENERAL'S OFFICE.

Raleigh, June 25, 1812.

I AM instructed by his Excellency the Commander in Chief, to notify those Officers of the Militia of North-Carolina who have been called upon for their proportions of the Requisition lately made by the President of the United States, to make immediate returns of the same in the manner directed: War having been declared, the services of the Militia will unquestionably be very shortly required, and the necessity of being in a state of readiness is absolute. The least unnecessary delay in any officer will be considered a neglect of duty, highly culpable.

I am also instructed to inform the Militia who compose the detachment, that his Excellency the Commander in Chief has just been advised by the Secretary of War, that two thousand stands of arms will be immediately sent to this state and placed at his disposal, in conformity to the act of Congress for arming the whole body of the Militia; and that it is intended these arms shall be put into the hands of the Detachment when called into service.

CALVIN JONES.

CHARLES PARISH,

RETURNS his grateful acknowledgements to his friends and the public, for the liberal encouragement they have given him heretofore, in his line of business, and informs them that his large and commodious Three Story Brick Building, at the Sign of

THE EAGLE,

North of the State-House, is now in complete order to receive Boarders and Travellers—where he earnestly solicits a continuance of their patronage. He pledges himself that nothing on his part shall be wanting to render general satisfaction to all those who favor him with their custom. Honest and active servants alone will be engaged; and his Stables will perhaps be excelled by none.

Raleigh, July 1, 1812.

TO UNDERTAKERS.

WILL be let to the lowest Bidder, in the Town of Greensboro', Guilford County, on Friday the 21st of August next, (being in Court week,) the BUILDING A JAIL for the County. It will be an undertaking of considerable magnitude, well worth the attention of Workmen. The terms of payment will be made known on the day. Bond, with approved security, for the faithful performance of the contract, will be required.

Daniel Galespie, James Mills, James Parsons, Nathan Armfield, Abraham Geren. Greensboro', June 12, 1812.

THE SUBSCRIBER,

BEING desirous to remove into the County, offers the HOUSE and LOTS which he now occupies in Germantown, for sale. He deems it unnecessary to give a particular description, as he supposes any person inclined to purchase, will view the premises, suffice it to say, that the advantages which this Property possesses, either as to local situation or convenient improvements, for a Store or Tavern, are equal, if not superior, to any in the upper country.

Cash or Negroes will be expected in payment, and possession given whenever required. ANDREW BOWMAN. Stokes County, June 20.

May be had at J. Gales's Store—PRICE PRICE & STROTHER'S MAP of NORTH-CAROLINA On Canvass and Rollers.