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## Kentucky Legislature.

[REPORTED FOR THE PALLADIUM.]

### HOUSE OF REPRESENTATIVES.

MONDAY, DEC. 18.

On motion of Mr. South the house went into committee of the whole, Mr. Robinson in the chair. The Green River debt bill was taken up, discussed and in some trifling particulars amended. Also the bill to incorporate a manufacturing company of Paris. Mr. Rowan moved an amendment, subjecting the private property of the stockholders to a liability for the debts of the company, which was opposed by Messrs. Mills, M'Afee and Blackburn. A debate of considerable length occurred. Mr. Rowan was opposed in principle both to the introduction of manufactures and to the increase of corporations in this country. He was opposed to any extension of our manufactures which was not imperiously demanded by a redundance of population—as long as our citizens could find employment in agriculture, he thought it improper that they should devote themselves to any other employment. He was opposed to giving manufactures by encouragement, not only on account of his direct hostility to them, but because he conceived that any encouragement given to them would be a tax on the farmers, or would operate against the agricultural interest. He thought the popular doctrine on this subject an extreme delusion. His principal arguments against it, which he amplified with much and plausible ingenuity, were, that the progress of manufactures would operate against the agriculturalist, that they would corrupt and vitiate the people employed in carrying them on, and that the industry and capital of the country should be left as free as possible to pursue their own course, neither encouraged nor restrained in any way by law.

On the other side it was argued, that the encouragement proposed in the bill, merely that of incorporating a company, could in no way operate against the interests of the farmers, but would in fact promote them, by creating a home market for their products, and supplying them with goods cheaper than the merchant could import them; that the progress of manufactures would render us independent of foreign countries; and that they did not tend to corrupt a people—the corruption in the manufacturers of Europe being the consequence, not of their employment, but of their ignorance, poverty, and numbers, or of a redundant and oppressed population. It was said that the farmers themselves would be the principal stockholders in such manufacturing companies; that if their private property was not made liable, they would invest their little surplus funds in such institutions, and thus promote the prosperity and independence of their country; but if private property was subject for the debts of the corporation, such investiture would not take place, and the object of the corporation would be defeated. The vote being taken the amendment carried by a majority of one—34 to 33—the chairman, who would have been in the negative, declined voting. We presume that *most* of the gentlemen who were in favor of the amendment did not vote for it on the principle avowed by its mover, that of hostility to the progress of manufactures, but because they conscientiously believed that in justice the private property of the stockholders should be made liable for the debts of the institution. The result however will be the same to the great interests of the community, as far as they are affected by the policy of incorporation.

The committee rose and the house concurred in the amendments to the Green River bill. Mr. Blackburn proposed to strike out the section which says that the interest shall be remitted to those who pay the whole amount due the present year. His motion was lost, 11 to 57.

TUESDAY, DEC. 19.

Mr. Breathitt presented a petition from Fayette county, praying for leave to make a lottery, to raise funds to build a house.

Mr. Blackburn, from the committee on propositions and grievances, reported the petitions for new counties as unreasonable—the house concurred, after some discussion between Mr. Owens for the county to be erected out of Gallatin and Henry, and Mr. George against it.

Mr. Ward reported a bill to amend the several acts relative to writs of *ad quod damnum*. It merely authorises house-keepers to form the jury, instead of freeholders, as now required by law.

Mr. Eve obtained leave to bring in a bill to amend the laws authorising the appropriation of the lands acquired by the treaty of Tellico.

The committee appointed to examine the treasury, reported that they had found every thing correct—The report was not read, as it will be printed in the journal.

In committee of the whole, Mr. Allan in the chair, the bill farther to regulate the court of appeals was read—

Mr. South moved to strike out the word *four*, so as to leave the number of districts blank. If that amendment were adopted he would then move to insert six. If the court were branched at all, he was in favor of having a greater number of districts. The avowed principle of the bill, was that of favoring the interests and convenience of the people by bringing this court near to them, so that they could obtain justice with more ease and less expense; and on that principle he thought more than four districts should be established, so as to bring the court as convenient as possible to all the people.

Mr. Rowan wanted to know whether the gentleman was favorable or hostile to the principle of the bill. When he received that information, he would then know how to appreciate the amendment proposed. The gentleman probably wished to defeat the measure entirely, and had thought proper to make his attack in the shape of an amendment: however improper and unfair he might think such a course, he was obliged to acknowledge, that it had been no very unusual thing to see it pursued in this house. But from whatever motive the gentleman had acted, he would declare that he felt himself obliged to oppose the motion. He acted on the distributive principle, to favor the convenience of the people, but distribution must have a limit. He did not believe it susceptible of the extent to which the amendment proposed to carry it.

Mr. South, in reply to the call to know his sentiments on the principle of the bill, said he did not feel entirely prepared to give an answer to the enquiry. His principle of action was, to promote the interest of the people; he presumed his votes in this house would prove his devotion to their cause—he would still act on the same grounds; if then such a system was adopted in branching this court, as would in his opinion subserve the interest of the people generally, he should support it; but if he did not think the plan adopted would do so, he would ultimately vote against it. The question being taken, the motion was negatived.

Mr. Blackburn moved to strike off Woodford county from the first district; and Mr. Knight moved to strike off Franklin, which was first in order in the bill. Mr. Blackburn said he would not pretend to say that he was not hostile to the principle of the bill; but if it should pass, he wanted to make it as perfect as possible; he felt it his duty in particular to take care of the interest of his immediate constituents, and he only asked for that justice to them in forming the districts which other gentlemen would desire him to extend to theirs. From the manner in which the first district was formed, the court in that district would be so crouded with business that his constituents would not have an opportunity to bring their suits to a trial and determination for perhaps six, eight or ten years.—He wished to be struck off from a district so large and in which there would be so much business, and added to one of the others, which were smaller. He would prefer to be joined to the fourth, as he believed the place where the court would be placed in that district would be more convenient to the people of his county in point of distance than to the second, or even that of the first.—He did not see that any evil could result from the measure proposed; it might perhaps have some effect in determining the place where the court should sit; but if the branching of the court, as all the friends of the measure declared, was intended for the benefit of the people, they would surely not oppose an amendment founded on the object truly was to promote the benefit of the people, they would certainly hear the wishes of the people, and be guided by them. He knew that his constituents were opposed to being joined to the first district; and as the promoting of their views and interests in this respect, could not injure the interests of the people in any other quarter, he trusted the committee would be willing to favor them. They were willing to form a part either of the second or fourth district, but would prefer being attached to the fourth, as the court in that district would have less business to do than the other, and would be able to afford them a more speedy trial.—The question now before the committee respected the formation of a district, and in votes on it, he trusted there would be no regard had to the future seat of the court; but that every gentleman would vote with a view to the interests of the people.

Mr. Logan said, it appeared that the gentlemen who were the particular friends of this bill, required to know the ultimate views of those who might speak on the subject, before they were disposed to give them due consideration. For his part he felt under no obligation to gratify them with his sentiments on the principle of the bill at present. That question was not before the committee; but he would inform them however that he did not advocate the amendment proposed with any intention to defeat the passage of the bill. Proceeding on the presumption, that the bill would pass, the present business of the committee was, to form the districts in such a manner that the interests of the people would be promoted to the greatest practicable extent. All the friends of the bill would tell us, that the convenience of the people was their object; that they wished to bring justice to every man's door, to render it cheap and accessible alike to the rich and the poor, in all parts of the country. Let that principle then be kept in view; and it will require the alteration proposed. The first district as it stands in the bill is disproportionably large; it contains about 20 counties, and the most wealthy and populous in the state; in other districts there are but twelve or thirteen counties.—There are at least 3 times the wealth and population, and three times the judicial business in the first district, that there is in one of the others. This accumulation of business will prevent the speedy decision of controversies in that district. What motive can there be for this disproportion in forming the districts? Why have the friends of the bill put fewer counties in the second district than in the first? The population, the wealth, and consequently the litigation in the second district are much less than in the first; this is unequal and unjust. Let the counties of Woodford and Franklin be struck from the first and added to the second or fourth and the inequality will thus be considerably removed. He presumed that no gentleman on this subject, would vote with a view to the effect the amendment might have on the seats of the court in the several districts, but would be governed entirely by the justice of the case, and the convenience of the people.

Mr. Marshall said as the county which he had the honor to represent was one of those proposed to be struck from the first district and added to some other, he thought it his duty to express his opinion on the subject.—He was willing that the amendment should carry, as to this county. He thought the great extent of the first district, and the great amount of business which would of course be found in its branch of the court, rendered it the interest of the people of Franklin to be detached from that district and added to the second. In the first district, the amount of the business must greatly retard the progress of their suits; in the other they would be able to obtain justice with more dispatch and with less expense.

Mr. Rowan said the gentleman must be mistaken as to delays which he feared in the first district. It was in the present condition of the court, that its proceedings were tardy, and from which they inferred, that delay would take place when it was removed to Paris. It was trammeled and paralised in this place by the other courts and the legislature. There were the general court, the circuit court, the federal court, and this court of appeals, frequently all sitting at the same time in this place, and the same lawyers practising in them all. The courts cannot progress with business for waiting on the attornies. While the lawyers are arguing in one the others must adjourn, and wait till they are ready to come to its bar. When the court is removed to Paris, this will not be the is impossible, that it will not be able in ten weeks, the time allowed for its session, to dispatch all the business of the district. The supreme court of the United States dispatches all the business of the union in that length of time. The fears of gentlemen on this subject proceed from their observation of the court in this place, where it is clogged and obstructed by its interference with so many other courts, and with the sitting of the legislature. The cause of their apprehensions should be a reason for removing it from a place, where it is cramped and paralised in so many ways. An airing would infuse into it new energy, life and dispatch. The courts of this place, and the many acquaintances which the judges meet with at the capital, with many means of obstruction, form an oppressive incubus, which is ruinous to its activity at present—redeemed from this incubus by the interference of the legislature, it will display a degree of energy and dispatch, highly honorable to itself and useful to the community. In the first district there will be less litigation in proportion to its size and population than in the second. The country is older, and the citizens have made more progress in settling their controversies about their lands. In the second district most of the lands are covered by numerous claims, which have never been investigated. There must of conse be a greater quantity of litigation in that than in the first, He was of opinion that Franklin was as near the centre of the first district as of any other. With respect to the seat of the court in any district, he would not be governed in selecting a place merely by the mathematical centre, he would have some regard to the conveniences which it could afford; to the accommodations for the judges and others attending the court; to the libraries to which the judges could have access, with many other circumstances. If gentlemen would be governed by local views in deciding every point, the whole session must be spent in discussing this bill. Nearly every member in the house might form districts in such a manner, that his favorite town would be in the centre of some one; but it was evident that the local interests of every gentleman could not be favored. He trusted then that these local interests would be disregarded, as far at least as the great interests of the mass of the people should require it. He reiterated the strictures on the situation of the court in this place, and made some remarks on the general condition of the courts in this state. He was willing to reform them all, beginning at the head and proceeding down to the humblest branches. The supreme court as now constituted, had features of royalty about it, which he disliked. He viewed the people as alone possessing the attributes of majesty in this country; he would make the court subservient to them; it should travel through the country to them, instead of requiring them to come to it.

Mr. Mills said the fears of gentlemen, that the court would be unable to dispatch all the business of the first district, must be visionary. The court while sitting in this place to receive appeals from the whole state, has been able to go throughout its docket this year in eight weeks only. How then is it possible that it will be unable to dispatch the business of the first district in ten weeks?

Mr. M'Afee said it appeared as if we had come here to consult local interests alone. The zeal of gentlemen for the bill appeared to increase in proportion as their situation approached towards the centre of the respective districts. But why should we consider those districts as they are now formed, as too sacred to be touched, if the convenience of the people is the principle on which the bill is predicated? Why not allow any county to be attached to that district, in which its citizens wished to be included? If the project is intended for the benefit of the people, why is one district made so much larger than the others, and the counties on its borders not permitted to leave it, and join those which are smaller?—He would lay off the districts first so as to be of as equal and of as regular a shape as practicable, and then select a place as near the centre as might be convenient in other respects for the seat of the court. If the interests of the people are to be the guide, this would certainly be the most correct course. But perhaps such a course might endanger the interest of Paris, or Bardstown, or Russellville, or Lancaster. If gentlemen will not pursue this equitable course, if they will be governed by their local views, they must not complain if the enemies of the bill should act on similar principles.

Mr. Chambers said he was unfriendly to the principle of the bill; yet he did not conceive that he was on that account precluded from urging the interests of his constituents, and of the whole state, in discussing the provisions of the bill. He had no local views or interests to influence his conduct on this question; he acted from his opinion respecting the interests of the people in the first district. It included about 20 counties, in each of which there was a circuit court so crouded with business that the docket was seldom gone through at any term. Perhaps gentlemen might attribute this to the inefficiency of the court—that might be the case in some instances; but he knew, that in others, it was not the fault of the court, but the great amount of business which produced this result From the number of circuit courts in the first district, from the length of their terms, and from the multiplicity of suits on their dockets, it was evident that in the first district there was at least double the business that there was in the second. It would be unequal and unjust to make such a distribution as this. According to the gentleman from Bourbon, the court of appeals is fully adequate to dispatch all the business of the state at this place in a very short time. Why then should the gentleman from Nelson complain so loudly of its delays and inefficiency in its present situation?—They appear to be fairly at issue on this point. If the friends of the bill wish to consult the interests of the people; if that is the principle on which the bill is predicated; the interest of the people should be consulted in every part of the country; equal justice should be done to all. It is said that a great amount of litigation is hereafter to arise in the other districts; but if that should be the case, we should not do injustice now to the first district, by way of providing for the others in anticipation. He concluded with apprising the committee that if the counties now under discussion were struck from the first district, he would then move to strike off others, as the district would still be too large.

Mr. Mills replied to Mr. M'Afee respecting the local interests of the friends to the bill. To the gentleman from Mason he said it was inconsistent to advocate the court in its present situation as capable of doing all the business of the whole state, and at the same time to oppose the size of the first district as producing too much business to be dispatched by the court in a session of ten weeks. With respect to the convenience of the people as to distance from the court, he believed the exterior counties in the first district were not farther from its centre than those of the others.

Mr. Marshall observed that the court could sit all the year at Frankfort if the quantity of business should require it; but in the district this could not be the case; a limited time must be allowed to each, and if through any cause whatever the business on the docket should not be dispatched at the regular term, it must then lie over a whole year. He said he had not expected that so much feeling would be excited by such a proposition as that under discussion. The gentlemen who opposed it were at variance in their arguments. In the hands of the gentleman from Bourbon the court had already shook off that drowsiness and inefficiency with which it had been invested by the gentleman from Nelson. He apprised the committee that he was opposed to the principle of the bill. From this consideration, as well as from his local situation with respect to the court, it was probable that any arguments he might offer, would not have the weight to which they might probably be entitled. He would not deny that he might be influenced in some measure by local considerations; but divesting himself as much as possible of that influence and judging with all the impartiality he could exercise, he must oppose the bill as unconstitutional and inexpedient.—With respect to the argument against the court drawn from its interference with the others at this place, he intended to propose a regulation by which it would be obviated—he would prohibit attorneys who practised in the court of appeals from practising in any other—whether the court were branched or not, he would use every exertion in his power to get this regulation adopted.

Mr. Logan said if the gentlemen from Nelson meant, by the features of royalty, which he attributed to this court, the circumstance of its sitting in one place, he would join him in removing them; but it would be necessary that his friend should go with him the full length of the distributing principle—the distribution must be made according to the business and population in the different sections of the country. That was the only equitable rule, if the interests and con-