amendment be enrolled, and that Senate Bills with amendments be placed among the orders of the day.

On motion of Mr. Hopkins, House Bill to be entitled An Act to authorize the Cuba and United States Submarine and Territorial Magnetic Telegraph Company to pass lines of Telegraph through the State of Florida, and to protect the same;

Was taken from the orders for to-morrow, and placed first among the orders of the day for this evening.

House Bill to be entitled an Act to authorize the Cuba and United States Submarine and Territorial Magnetic Telegraph Company to pass lines of Telegraph through the State of Florida, and to protect the same;

Was read the second time.

Mr. Long moved to add the following proviso to the end of the 11th Section:

Provided, however, That this Act shall not be construed to create or confer any corporate rights or privileges, and may at any time hereafter be repealed by the Legislature of this State.

Which amendment was adopted.

On motion, the rule was waived, and the Bill as amended read the third time, and upon the question of its passage the vote was:

Yeas—Mr. President, Messrs. Bird, Cone, Filor, Hawes, Kilcrease, Long, Smith and Tracy—9.

Nays—Messrs. Duncan, Eppes, Gillis and Hopkins—4.

So said Bill passed—title as stated.

Ordered that the same be certified to the House of Representatives.

A Bill to be entitled an Act to amend the general Act for the Incorporation of Towns, Academies and Religious Societies, approved January 6, 1847, with House amendments thereto;

Came up in order.

On motion of Mr. Eppes, the Senate concurred in said amendments.

Ordered that the same be certified to the House of Representatives, and the bill as amended be enrolled.

A Bill to be entitled an Act to authorize Samuel B. Thompson to establish a Ferry across the South Fork of Black Creek, with House substitute;

Came up in order.

On motion, the Senate concurred in said substitute.

Ordered that the same be certified to the House of Representatives, and the substitute ordered to be enrolled.

On motion of Mr. Cone, House bill to be entitled An act to extend the time for the enjoyment of the chartered privileges of the Columbus Bridge Company;

Was taken from the table and placed among the Orders of the Day.

House bill to be entitled An act to extend the time for the enjoyment of the chartered privileges of the Columbus Bridge Company;

Was read the third time, and upon the question of its passage, the vote was:

Yeas—Mr. President, Messrs. Bird, Cone, Duncan, Eppes, Filor, Gillis, Hawes, Kilcrease, Long, Smith and Tracy—12.

Nays—None.

So the bill passed—title as stated.

Ordered that the same be certified to the House of Representatives.

On motion the Senate adjourned until to-morrow morning, 9 o' clock.

SATURDAY, January 13th, 1855.

The Senate met pursuant to adjournment.

A quorum being present, on motion of Mr. Tracy, the reading of yesterday's Journal was dispensed with.

The following Bills which had passed the Senate were transmitted to the House of Representatives, viz:

House Bill to be entitled an Act to extend the time for the enjoyment of the chartered privileges of the Columbus Bridge Company; and

House Bill to be entitled an Act to authorize the Cuba and United States Submarine and Territorial Magnetic Telegraph Company to pass lines of Telegraph through the State of Florida, and to protect the same, with amendment.

The following message was received from the House of Representatives:

HOUSE OF REPRESENTATIVES,
January 13, 1855.

Hon. President of the Senate:

SIR:—The House has concurred in Senate amendment to a Bill to be entitled an Act to change the times of holding the Circuit Courts in the Eastern Circuit of Florida.

Very respectfully,
HUGH A. CORLEY,
Clerk House Representatives.

Which was read.

On motion the rule was waived, and Mr. Kilcrease offered the following Preamble and Resolution:

Whereas, there are several Bills, &c., of value now before the Senate which cannot be acted upon at this time, therefore,

Be it resolved, That John G. Smith be, and he is hereby authorized to take charge of the Senate Chamber, as well also the Books, Furniture, Stationery, &c., in and belonging to the same, and to keep

and preserve the same for the use of the adjourned session, in November next. And he is hereby instructed not to allow the said Chamber to be used or occupied for any purpose whatever, or to allow any of the Chairs, Carpets, Desks, Stationery, or any other thing belonging thereto, to be removed from the same, during the time above specified.

Which was read and adopted.

The following message was received from his Excellency the Governor:

EXECUTIVE CHAMBER,
TALLAHASSEE, January 12, 1855.

Hon. H. V. SNELL,
President of the Senate:

SIR:—I respectfully submit the following nominations for the advice and consent of the General Assembly:

For Brevard County:

Auctioneer—William Ransom.

For Levy County:

Auctioneers—Daniel Hogans,
S. L. Edwards.

For Jackson County:

Auctioneer—Robert S. Dickson,

For Duval County:

Port Wardens at Jacksonville—Charles Broward, Henry E. Holmes, H. H. Hoeg, Theodore Hartridge, F. C. Barrett.

Auctioneer—M. E. Hyams.

Lumber Inspectors—N. H. Vaught, F. B. Land, J. B. Sadberry, Thomas Bowden, B. Frisbee, Thos. N. McConnell, John M. Bowden.

For Santa Rosa County:

Auctioneer—Abram Forechimer.

Lumber Inspectors—Wm. McKain, Jesse C. Allen.

For Escambia County:

Port Wardens for the Port of Pensacola—Henry F. Ingraham, C. P. Knapp, Wm. H. Judah, John Griffin, George H. O'Neal.

Respectfully,
JAMES E. BROOME.

Which was read.

On motion of Mr. Hopkins, all the nominations therein contained (except F. C. Barrett) were advised and consented to.

Mr. Provence moved that the nomination of F. C. Barrett be advised and consented to;

Upon which the yeas and nays were called for by Messrs. Hopkins and Tracy, and were:

Yeas—Mr. President, Messrs. Bird, Duncan, Filor, Hawes, Kilcrease and Provence—7.

Nays—Messrs. Gillis, Hopkins, Smith and Tracy—4.

So the motion was adopted.

ORDERS OF THE DAY.

House Bill to be entitled an Act to amend an Act entitled an Act to provide for the establishment of two Seminaries of Learning, approved January 24, 1851, and for other purposes;

Was read the second time and ordered for a third reading on the 4th Monday in November next.

House Bill to be entitled an Act for the relief J. P. K. Savage and Haley T. Blocker, and for other purposes;

Was read the second time, the rule waived, the bill read the third time by its title, and upon the question of its passage, the vote was:

Yeas—Messrs. Eppes, Gillis, Hawes, Hopkins, Provence, Smith and Tracy—7.

Nays—Mr. President, Messrs. Bird, Duncan, Filor and Kilcrease—5.

So the Bill passed, title as stated.

Ordered that the same be certified to the House of Representatives.

House Bill to be entitled an Act to authorize the Trustees of the Internal Improvement Fund to surrender the right, title and claim of the State to certain lands;

Was read the second time, the rule waived, the Bill read the third time, and upon the question of its passage, the vote was:

Yeas—Mr. President, Messrs. Bird, Duncan, Filor, Gillis, Hawes, Hopkins, Kilcrease, Provence, Smith and Tracy—11.

Nays—None.

So the bill passed, title as stated.

Ordered that the same be certified to the House of Representatives.

The following Bills which had passed the Senate were transmitted to the House of Representatives, viz:

House Bill to be entitled an Act for the relief of J. P. K. Savage and Haley T. Blocker, and for other purposes; and

House Bill to be entitled an Act to authorize the Trustees of the Internal Improvement Fund to surrender the right, title and claim to certain lands.

The following message was received from the House of Representatives:

HOUSE OF REPRESENTATIVES,
January 13, 1855.

Hon. President of the Senate:

SIR:—The House has passed Senate Bill for the relief of M. Whit Smith, with enclosed amendments, in which the concurrence of the Senate is respectfully requested.

Very respectfully,
HUGH A. CORLEY,
Clerk House Representatives.

Which was read.

On motion, the Senate concurred in House amendments to a Bill to be entitled an Act for the relief of M. Whit Smith.

Ordered that the same be certified to the House of Representatives, and that the bill as amended be enrolled.

A Committee from the House of Representatives informed the Senate that the House would be prepared to adjourn at 12 o'clock, M., to meet on the 4th Monday in November next, and asked the concurrence of the Senate.

A Bill to be entitled an Act respecting violations of the Sabbath;

Was read the second time, and the Senate refused to have it engrossed for a third reading.

The following Message was received from his Excellency the Governor:

EXECUTIVE CHAMBER,
Tallahassee, January 13, 1855.

Fellow Citizens of the Senate
and House of Representatives:

I beg leave respectfully to call your attention to the subject of an appropriation for the expenses and compensation of the Commission recently appointed, under an interlocutory decree of the Supreme Court of the United States, with reference to the settlement of the boundary between this State and Georgia. The bill was filed by this State, and the interlocutory decree made at the request of the Attorneys of both States. The question may be finally disposed of during the present term of the Court, the line ordered to be run, and the final report filed before the meeting of the General Assembly in November next. Without an appropriation, I cannot perform the duties, if required, and there is no citizen of the State who would not feel regret at knowing that his Government, as the plaintiff in the suit, had been forced to acknowledge her inability to execute the decree.

I have no fund with which to pay Attorneys' fees long since contracted, nor the expenses and compensation for services rendered by the boundary Commission, appointed by myself, under the law of the State and the official opinion of the Attorney General. I respectfully request that the General Assembly will not adjourn without making the necessary provision, and appointing an officer to audit and settle the accounts.

Very respectfully,
JAMES E. BROOME.

Which was read.

On motion of Mr Long, House Bill to be entitled an Act to provide for the expenses of Florida in the settlement of boundary with the State of Georgia, was taken from the table and placed among the orders of the day.

House Bill to be entitled an Act to provide for the expenses of Florida in the settlement of boundary with the State of Georgia;

Was read the third time, and upon the question of its passage the vote was:

Yeas—Mr. President, Messrs. Bird, Hawes, Kilcrease and Long—5.

Nays—Messrs. Duncan, Eppes, Gillis, Hopkins, Provence, Smith and Tracy—7.

So the Bill was lost.

Mr. Provence moved a re-consideration of the vote just taken;

Which was agreed to.

On motion of Mr. Long, said Bill was referred to a Select Committee, consisting of Messrs. Long, Hawes and Eppes.

The following message was received from the House of Representatives:

HOUSE OF REPRESENTATIVES,
January 13, 1855.

Hon. President of the Senate:

SIR:—The following resolution has been adopted by the House of Representatives:

Resolved, That the Speaker adjourn this House, at 9 o'clock, P. M., over to the fourth Monday in November, 1855, under Joint Resolution of both Houses of this General Assembly.

Very respectfully,
HUGH A. CORLEY,
Clerk House of Representatives.

Mr. Long, from a Select Committee, made the following report:

The Select Committee, to whom was referred a Bill to be entitled an Act to provide for the payment of the expenses of the boundary suit with the State of Georgia, having considered the same, instruct the undersigned to recommend the said Bill to be amended by striking out the first and second Sections thereof, and by inserting in lieu therof the following:

Be it further enacted, That the Governor of this State be authorized to order the Comptroller of this State to audit the accounts of the persons heretofore appointed by him, as Commissioner and Surveyor of the boundary line between this State and the State of Georgia, for such amounts respectively to each as the Governor may, upon investigation, deem just and proper, and the Treasurer of this State is hereby authorized and required to pay the amount so audited, out of any money in the Treasury not otherwise appropriated.

And that the Sections be re-numbered, so as to correspond with this amendment.

Respectfully submitted,
M. A. LONG,
Chairman Select Committee.

Which was read, and the Bill placed among the orders of the day.

House Bill to be entitled an Act to provide for the expenses of Florida in the settlement of the boundary with the State of Georgia;

Came up on its second reading.

On motion, the amendments proposed by the Select Committee to whom it had been referred, were adopted.

The Bill as amended was read the second time, the rule waived, read the third time; and upon the question of its passage the vote was:

Yeas—Mr. President, Messrs. Bird, Gillis, Hawes, Kilcrease, Long, Provence and Tracy—8.

Nays—Messrs. Duncan, Eppes and Hopkins—3.

So the bill passed—title as stated.

Ordered that the same be certified to the House of Representatives.

The following Bill, which had passed the Senate, was transmitted to the House of Representatives, viz:

House Bill to be entitled an Act to provide for the expenses of Florida in the settlement of boundary with the State of Georgia.

On motion, the rule was waived: and Mr. Long, from the Committee on Enrolled Bills, made the following report:

The Committee on Enrolled Bills have examined and find correctly enrolled the following:

An Act to create a fifth Judicial Circuit in this State, and to confer the powers and devolve the duties of Justices of the Supreme Court upon the Circuit Judges;

An Act to prevent any deduction on cotton bales;

An Act to remove the obstructions to the navigation of the Suwannee River;

An Act for the relief of Doctor Williams S. Wilson and others;

An Act to authorize Samuel B. Thompson to establish a Toll Bridge or Ferry across the South Prong of Black Creek at Middleburg;

An Act to amend the Militia Laws of this State;

An Act to amend the general Act for the Incorporation of Towns, Academies and Religious Societies, approved January 6, 1847;

An Act to Incorporate the Tallahassee and Quincy Plank Road Company;

An Act to authorize Samuel D. Howse to assume the management of his estate;

An Act granting certain lands to the Palatka and Micanopy Plank Road Company;

An Act to amend an Act entitled an Act to incorporate the Jacksonville and Alligator Plank Road Company;

An Act for the relief of M. Whit Smith; and

An Act amendatory of an Act amendatory of the several Acts now in force in this State, in relation to trading with Negroes.

Respectfully submitted,

M. A. LONG,

Chairman Committee on Enrolled Bills.

Which was read.

The following Bills, which had passed both Houses of the General Assembly, and been duly enrolled and signed by the presiding officers thereof, were transmitted for approval to his Excellency the Governor, viz:

An Act to create a Fifth Judicial Circuit in this State, and to confer the powers and devolve the duties of Justices of the Supreme Court upon the Circuit Judges;

An Act to prevent any deduction on Cotton Bales;

An Act to remove the obstructions to the navigation of the Suwannee River;

An Act for the relief of Doctor William S. Wilson, and others;

An Act to authorize Samuel B. Thompson to establish a Toll Bridge or Ferry across the South Prong of Black Creek, at Middleburg;

An Act to amend the Militia Laws of this State;

An Act to amend the general act for the incorporation of Towns, Academies and Religious Societies, approved January 6, 1847;

An Act to incorporate the Tallahassee and Quincy Plank Road Company;

An Act to authorize Samuel D. Howse to assume the management of his own estate;

An Act granting lands to the Palatka and Micanopy Plank Road Company;

An Act to amend an Act entitled an Act to incorporate the Jacksonville and Alligator Plank Road Company;

An Act for the relief of M. Whit Smith; and

An Act amendatory of an Act amendatory of the several Acts now in force in this State in relation to trading with negroes.

On motion, the Senate took a recess until 3 o'clock, P. M.

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3 O'CLOCK, P. M.

The Senate met—a quorum present.

The following message was received from his Excellency the Governer:

EXECUTIVE CHAMBER,
TALLAHASSEE, January 13, 1855.

HON. H. V. SNELL,
President of the Senate:

SIR:—I respectfully submit the following nominations for the approval of the Senate:

Board of Education for the East Florida State Seminary—L. C. Gaines, John E. Williams, John M. Taylor.

Respectfully,

JAMES E. BROOME.

Which was read and the nominations therein contained were advised and consented to.

The following message was received from the House of Representatives:

HOUSE OF REPRESENTATIVES, }
January 13, 1855. }

Hon. President of the Senate:

SIR:—The House has concurred in Senate amendments to a Bill to be entitled an Act to provide for the expenses of Florida in the settlement of boundary with the State of Georgia.

Very respectfully,
HUGH A. CORLEY,
Clerk House Representatives.

Which was read.

On motion of Mr. Tracy, a Committee consisting of Messrs. Tracy, Duncan and Bird were appointed to wait upon his Excellency the Governor, and ask if he had any further communication to make.

The Committee returned, and reported that they had waited on his Excellency, who informed them that he had no further communication to make to the Senate.

On motion the rule was waived, and Mr. Hopkins moved that the vote on Resolution in relation to giving up the Senate Chamber in safe keeping to John G. Smith be reconsidered;

Which motion was adopted.

On motion of Mr. Long the resolution was laid on the table.

A Committee from the House informed the Senate they would be prepared to adjourn at half past 3 o'clock.

Mr. Long presented the following Protest, which was ordered to be spread on the Journals:

PROTEST

Of a Minority against the Amendments to the Act to establish a Fifth Judicial Circuit in this State, so far as said Amendments are designed to remove from Office the present Judges of the Supreme Court, and to appoint the Circuit Judges to discharge the duties of the Supreme Court of this State.

The undersigned, members of the present General Assembly, having voted against the amendments to the Act to establish a Fifth Judicial Circuit in this State, so far as said amendments are designed to remove from office the present Judges of the Supreme Court, and to appoint the Judges of the Circuit Courts to discharge the duties of the Supreme Court of this State, being about to separate, perhaps never to meet on this theatre again, cannot, consistently with a sense of duty to ourselves, our constituents and the Constitution of our country, close our official duties without uniting our humble voices, respectfully but firmly, in solemn protest against this Act, as unconstitutional, unjust and alarming.

The Constitution provides "that on the first Monday in October, in the year one thousand eight hundred and fifty-three, and on the first Monday in October every six years thereafter, there shall be elected, by the qualified electors of each of the Judicial Circuits of this State, one Judge of the Circuit Court, who shall reside in the Circuit for which he may be elected, and continue in office for the term of six years from and after the first day of January next succeeding his election, unless sooner removed, under the provisions of this Constitution for the removal of Judges, by address or impeachment; and for wilful neglect of duty, or other reasonable cause which shall not be sufficient ground for impeachment, the Governor shall remove any of them, on the address of two-thirds of the General Assembly: *Provided, however,* That the cause or causes shall be stated at length in such address, and entered on the journals of each House: *And provided further,* That the cause or causes shall be notified to the Judge so intended to be removed, and he shall be admitted to a hearing in his own defence before any vote for such removal shall pass," &c.; and that the Judges of the Supreme Court "shall be elected in the same manner," &c., "*and shall hold their offices for the same term,* and be subject to all the provisions of said first Section: *Provided, however,* That the Judges of the Supreme Court shall be elected by general ticket," &c.

The Justices of the Supreme Court were elected by the people of the State for the term of six years from the first of January, 1854, which term will not expire until the first day of January, 1860. We declare it as our solemn conviction that each one of the above quoted provisions of the Constitution has been totally (though not wilfully, we are ready to believe,) disregarded in the instance against which we protest. The Judges have not only been condemned unheard, but what is infinitely worse and more unjust, they have not been *openly* charged with any misbehaviour in office, or with any personal delinquency whatever. If there are any complaints or charges against the Judges, either grave or trivial, those who seek to punish them by removal from office, have failed to give the same utterance; they are kept profoundly secret, so far as the records of this General Assembly show. This seems to the undersigned to partake of the character of despotic cruelty.

But when the *form* in which the removal sought to be effected is considered, it will appear that there has not been even the least attempt to regard these provisions of the Constitution; not even a decent respect for *appearances* has been observed. There have been no articles of impeachment preferred by the House of Representatives, and tried before the Senate, nor any form of address to the Governor, demanding the removal of the Judges by that functionary. The process adopted is a simple act of ordinary legislation, notwithstanding the express language of the Constitution, that the Judges "*shall hold their offices*" for the term of six years from January, 1854. If

this act is carried into execution, the Judges will hold their offices only a few days over one year, by an unauthorized fiat or decree, which seeks to repeal or nullify the express meaning of the Constitution. We do consider this revolution in its most alarming form. It is an attempt of one department of the Government to crush and destroy the separate and independent character of another co-ordinate department. The Constitution, (Article 2, Clause 1,) declares that "the powers of the Government of the State of Florida, shall be divided into three *distinct* departments, and each of them confided to a separate body of magistracy, viz: Those which are Legislative to one; those which are Executive to another; and those which are Judicial to another." Article 4, Clause 1, says: "The Legislative power of this State shall be vested in two distinct branches, &c.;" and the 5th Article, Clause 1, declares that "the Judicial power of this State, both as to matters of law and equity, shall be vested in a Supreme Court," &c. Each department of the Government is created for wise ends, and must exist as long as the Constitution endures. There must be a Judicial as well as a Legislative and Executive department. The ultimate powers of that department must be vested in *one Supreme Court*. There must be an Executive department; the supreme powers of that department must be vested in a Chief Magistrate. The Governor can only be removed from his office by two-thirds, on impeachment. The office cannot be abolished; it cannot be removed from the Governor by any act of the Legislature. The Judges can only be removed from their offices by the modes mentioned in the Constitution. The Supreme Court cannot be abolished, any more than the Chief Magistracy of the State, and the Judges, unless removed in pursuance of the Constitution, are entitled to hold their offices during the whole term for which they were elected by the *people*, and commissioned by the Executive. If the Legislature can abolish or discontinue it for one moment, there is nothing to prevent its abolition forever. If the Legislature may turn out of office the Supreme Judges, so may they turn out the Chief Magistrate; for those departments are alike created by the Constitution and filled by the sovereign people. This is the doctrine of the Constitution—it is the doctrine of genuine Republicanism—it was the doctrine of the Republicans in 1802, with Mr. Jefferson at their head. The Republican party in Congress, in 1802, acknowledged that the Supreme Court could not be abolished, nor the Judges removed from office, by an act of ordinary legislation, because the Court was established by the Constitution, and the Judges held their offices by a tenure pointed out in that instrument. It was regarded as being as much beyond the power of Congress as the existence of Congress was beyond the power of that Court. The same is even more obviously true in this State, where the Supreme Judges are elected by the people themselves, just as are the members of the Legislature, except that the latter are elected by the people of the Counties or Districts; and the Judges are elected by the people of the whole State,

"*by general ticket*," in the language of the Constitution. But this Legislature, as if above the Constitution, have arrogated the right to remove the Judges from office, with as little ceremony as if the Court was its creature and subject to its will and pleasure.

We consider this not only an unconstitutional and high handed measure, but one which, if approved, will prostrate the whole fabric of civil liberty. We consider this act as an unintentional attempt by the majority of the Legislature to consolidate their power, and perpetuate their supremacy over the rights of the minority and the Constitution, by destroying the independence and purity and impartiality of the Judiciary; and if it be countenanced by the people, we believe that our Courts will ultimately become subservient to the strong party, or party in power; that we shall be governed by factions; that "liberty and equality" will become empty sounds; that the ambitious and powerful will hold in their hands the destinies of our State; that the minority will indeed have no rights; that the freedom of speech and of conscience, and the rights of life, liberty and property will depend upon the caprices of a fluctuating majority of the Legislature; that our Courts will be servile and dependent, like those of revolutionary France under Robespiere, and like those of England under the Tudors and Stuarts; and that the Legislature of Florida will become practically as omnipotent as the British Parliament.

These are not the suggestions of heated imaginations, but we fear they may become sober and solemn realities. If this great outrage upon the Constitution, upon the Court, and upon the rights of the people, shall be sanctioned, where is our security? The approbation of the people of such an act, would indicate a destitution of that reverence for the organic laws of the land—the primary expression of the will of the sovereign people—which is the soul of every Constitution, and without which no people ever were or ever will be free. The greatest characteristic of republican liberty is found in a written Constitution, dividing the powers of government into separate and distinct departments, the functionaries of each of which being alone responsible to the Constitution and to the people. These separate departments of the people's government are wisely designed to operate as wholesome and salutary restraints upon each other. For instance, the veto of the Executive department is designed as a necessary check upon hasty or inconsiderate legislation. The Legislative power of impeachment and removal by address of two-thirds of its members, is a wise and salutary check upon the Executive and Judicial departments, to restrain or punish all manner of corruption, usurpation of power, or even mere worthlessness and inefficiency; and the ultimate and most important power, of finally deciding upon the constitutionality of legislative enactments, possessed by the Supreme Court, is most wisely designed to check and restrain those rash and inconsiderate, and sometimes harsh and tyrannical legislative acts, which have been the grave of good government, liberty and order, in all ages and nations of which history has given any account. This system

of reciprocal checks and balances of constitutional power, we cherish as among the very dearest and most valuable principles of civil liberty and constitutional republicanism. Destroy this great bulwark of liberty, and the government will soon as it were run into one consolidated mass of unchecked, unrestrained despotic power, in which the weak and helpless are preyed upon by the strong and powerful; where the voice of truth and justice is silenced forever. And this is no exaggeration, for it is obvious that if the Legislature may usurp one single unwarranted power, no matter how small and insignificant, it may usurp all, and exercise absolute power; for

"Whatever link you strike,
Tenth or ten thousandth, breaks the chain alike."

The undersigned also protest against so much of said act as undertakes to command the Judges of the Circuit Courts, elected as they have been for a particular term, by the people of their respective Circuits, hereafter to discharge the duties of the Supreme Court, responsible and arduous as those duties are. This we regard as a most undisguised and unblushing attempt to wrest from the hands of the people what they have chosen not to delegate to the Legislature or to any other department of the government—the power of appointing the Judges of the Supreme Court. If for the sake of argument it was conceded, as it cannot be, that the Legislature might remove the Judges of the Supreme Court, without observing any of the conditions or requirements of the Constitution, we ask, because it is the right of the people to know, by what pretext or color of right the Legislature arrogate to themselves the power of appointing Judges of the Supreme Court, when the Constitution plainly declares that the Judges of this tribunal shall be elected by the qualified voters of the whole State, "*by general ticket?*" If this may be done, we ask why may not the Legislature also assume the appointment of Chief Magistrate of the State, who is also by the Constitution elected by the qualified voters of the whole State, by general ticket? Or why may not the present Legislature just save the people the trouble of electing the members of the next General Assembly, and appoint their own successors; and indeed if any of the members whose term of office is yet unexpired, shall happen to be unpopular with the present majority, why may they not then be removed from office without charge or notice, and others appointed to fill their places, whose principles may be more suited to the tastes or views of the majority? We declare it as our opinion that the cases are paralled in every particular, except that the Supreme Court is the highest and far the most important department of the government.

If it be said by way of excuse or pretext for this glaring usurpation of power, that the Circuit Judges did discharge the duties and exercise the powers of the Supreme Court for five years after the first election, and thereafter *until* the Legislature otherwise provided, there is more than one conclusive answer to the suggestion. The first answer is, that the Circuit Judges exercised the powers and discharged the duties of the Supreme Court, for the time limited in the Constitution, under the express command and by the express authority of that instrument, and not at the command or by the authority of the Legislature. And those functionaries would doubtless do so again, if commanded and authorized by the Constitution which they are sworn to defend and support. But it does not follow that they are under any obligations or have any authority to do so, because required by the Legislature, who have avowedly no more power to appoint or elect Judges, than they have to appoint or elect a Governor or members of the General Assembly, the people having wisely chosen to retain this power in their own hands.

The Constitution, (art. 3, clause 3,) declares that "for the term of five years from the election of the Judges of the Circuit Courts, and thereafter *until* [not *whenever*] the General Assembly shall otherwise provide, the powers of the Supreme Court shall be vested in, and its duties performed by the Judges of the several Circuit Courts within this State," &c. From this it is plain that the Legislature had no voice in making the Circuit Judges act as a Supreme Court for the limited time mentioned, but all the capacity which the Legislature had in the premises was that, after the expiration of five years from the first election of the Circuit Judges, to *otherwise provide* by electing Judges of the Supreme Court, which another clause of the Constitution expressly authorized them to do, and the Judges so elected were to hold their offices for life, or during good behavior, until by an amendment of the Constitution, the election of Supreme Judges was given directly to the people. Therefore all the agency which the Legislature had in the matter was to determine *when* the Circuit Judges should cease forever to discharge the duties of the Supreme Court. This simple act the Legislature in 1851 did perform by the election of three separate Supreme Court Judges. The Circuit Court Judges were then, by the letter and plain sense of the Constitution, exempted from the further discharge of the duties of the Supreme Court; and there is not one word of authority in the Constitution for the Legislature again imposing that duty upon them. On the contrary, since that time the people have taken away from the Legislature the power of electing as well the Circuit as the Supreme Court Judges. But if this feeble pretext of an argument for the power of appointing the Circuit Court Judges to the Supreme Bench needed further exposure, it might be found in the simple consideration, that it proves a great deal too much to be true, for all truths must be consistent with each other. If, for instance, it were true that the Legislature may now rightfully command and require the Circuit Court Judges to discharge the duties of the Supreme Court, because they say the Legislature once required that duty at their hands for a limited period, would it not be equally true that the same Legislature might require, on the same ground, that the three separate Supreme Court Judges whom they once required to fill the Supreme Court, shall for that reoson come forward now and fill the same offices, in

preference to those elected by the people in pursuance of the amended Constitution? But in point of fact the Legislature never did empower the Circuit Court Judges to act as Supreme Judges, that authority having been expressly given by the Constitution, and not by the Legislature, who only had the power to terminate the authority so to act, by "*otherwise providing*" for the election of separate Supreme Court Judges, and having thus "otherwise provided," it is not in the power of the Legislature, without a change of the Constitution, to reimpose upon the Circuit Court Judges the powers and duties of the Supreme Court.

The undersigned, therefore, protest against the Act in question, on both the grounds hereinbefore set forth, namely: Against the right of the General Assembly *to remove Judges without avowed cause, and without impeachment or address*, as required by the Constitution, *and against the power of the Legislature to appoint any persons to fill the offices of Supreme Judges of this State.* We believe the Act in question to amount to a gross usurpation of power, which virtually places the Constitution under the feet of a triumphant majority, who, if not checked by the people, may hereafter exercise all power, Legislative, Executive and Judicial, which Mr. Jefferson, and other patriots of the revolution, have justly denounced as the most intolerable despotism. Against this sort of tyranny the fathers of the Republic protested in the Declaration of Independence; against this sort of tyranny they struggled, bled, and gloriously triumphed; and against it those of their sons who cherish their principles will ever contend and struggle, in whatever form the contest may present itself; and we do declare to the Legislature, and to the people, that if this memorable Act shall be permitted to be carried into operation, liberty is in danger—morality is in danger—tranquillity is in danger—religion is in danger—everything dear and sacred is in danger. We will have no living Constitution, and against bad times and bad men there will be no security. This example may consecrate every encroachment that power can make on the rights of the poor and the humble—the persecuted and the virtuous.

The only privilege now left the minority is to complain and remonstrate, by appealing to the people, and as their faithful sentinels on the watch-towers of liberty, to give the alarm of this invasion of the Constitution and liberty of our beloved country.

Appealing, therefore, to our own consciences, and to that Providence through whose merciful dispensations our beloved country has passed through many trials and perils, for the rectitude of our conduct and the purity of our motives, we do now, for ourselves and our constituents, and our posterity, in the name of constitutional liberty and eternal justice, enter on the journals this our solemn protest.

Senators.	*Representatives.*
M. A. LONG,	JOSHUA TAYLOR,
WILLIAM L. CRIGLAR,	JAMES P. PENN,

JAMES FILOR,	WM. F. RUSSELL,
DAN'L. BIRD,	J. B. GALBRAITH.
WM. E. KILCREASE,	

Mr. Tracy offered the following resolutions:

Resolved, That our thanks are due and are hereby tendered to the Hon. H. V. Snell, President of the Senate, for the able, courteous and impartial manner in which he has discharged the onerous and responsible duties of his station during the present Session of the General Assembly.

Resolved, further, That the Secretary, and other officers of the Senate, are hereby tendered our thanks for their attentions during the present Session.

Which were read and adopted.

The President, in an eloquent address, thanked the Senate for the confidence reposed in him.

On motion of Mr. Hopkins, a Committee consisting of Messrs. Hopkins, Tracy and Hawes, were appointed to inform the House of Representatives that the Senate was ready to adjourn.

The Committee returned and reported that they had found that the House of Representatives had already adjourned.

On motion, the Senate adjourned until the 4th Monday in November next.