The Message of the President was read, referred to a committee of the whole on the state of the Union, and five thousand copies ordered to be printed for the use of the House.

Mr. Nelson of Virginia offered for consideration the following resolution, without preface or remark: Resolved, That the committee on the judiciary be instructed to report a bill to repeal the act, entitled, "An act to change the mode of compensation to the members of the Senate and House of Representatives, and the delegates from the Territories."

The Speaker intimated that the motion was not regular, inasmuch as the judiciary committee as well as other standing committees, were not yet appointed. The question on considering this motion was decided in the negative.

The standing committees were then ordered to be appointed. And the House adjourned.

Wednesday, December 4.

After the reference of different parts of the President's Message, to respective select committees, Mr. Johnson of Ky. rose, and after a speech of more than an hour's length, in which he declared his opinion of the compensation law, when justly viewed, to be unchanged, but his motion to be predicated on the will and implied instructions of his constituents, offered for sideration the following resolution:

"Resolved, That a committee be appointed to enquire into the expediency of repealing or modifying the late act changing the mode of compensation to the members of Congress, and that they report by bill or otherwise"—which was agreed to without a division.

STATE LEGISLATURE.

DEBATE

On the Bill to amend the 3d Section of the Vth Art. of the constitution of this state (continued.)

Mr. MARTIN—The importance of this question, Mr. Chairman, and the interest manifested in its discussion, are the only apologies which I shall offer for delaying the committee in their decision on this subject. I am willing to admit sir, that the alteration of a constitution, the solemn and deliberate result of the concentrated wisdom of a state, is a measure which requires the exercise of all our prudence, the watchfulness of all jealousies. Nor can I agree with the gentleman who has just taken his seat (Mr. Richardson) or the gentleman from Charleston (Mr. Lance) who addressed the house on this subject when it was last under consideration: that I am so idolatrous admirer of the constitution. Sir, I feel as if I were treading on sacred ground when I approach this temple of freedom—this ark of our political safety. But this veneration for the deeds of other times—this sacred regard for the instrument I so highly appreciate, is no longer commendable, when the evils which have been already detailed to you, united with complaints from every quarter of the state, convince us that the people "are laboring under a burden too heavy to be borne."

These observations are made to convince gentlemen in opposition to the bill, that the opinion I have formed is the result of reflection, and not the capricious whim of a volatile moment.

The evils intended to be remedied are not the creatures of imagination. They exist in truth and in fact. They press hard upon the citizens of this state, and set at defiance every effort of your courts of justice. Under the present arrangement, your constitutional court docket is interminable. The increase, when compared to its decrease, is in a proportion of three to one. Where then, I would ask, will this injustice end? When will you propitiate the sacrifice, which the people of this state have so often made—a sacrifice, which, while it reflects the highest character on their patience and forbearance, reproaches the legislature of Carolina with a degree of inactivity and supineness, highly culpable. Shall I be told that the fault is not in the system, but in its execution? The assertion, though plausible, is fallacious. This system appears well on paper, but in its execution it has been found deplorably defective. Sir, you require of your judges, duties, the performance of which demands a greater proportion of physical and intellectual capacity than is usually allotted to man. In demonstration of this position, I solicit for a moment the attention of the committee, while I bring to their view the extent of their *servitude*, for so I must call it.

Most of your circuits commence on the first Monday in October, and *all* of them end on the Saturday after the third Monday after the fourth Monday in [illegible]. The time consumed in riding to the commencement of their circuits, and from the courts at which they conclude, to Columbia, generally completes the eighth week. Suppose them to sit one month in Columbia, and dispose of ninety cases, which is a fair calculation: your constitution, as well as the act of 1799, requires them to proceed *immediately* to Charleston. The constitution is imperative; and, independently of its injunction, policy and humanity both demand such a course. With the beginning of January then, commences the session in Charleston. Another month is engaged, and if they shall decide ninety cases more, they will have been industriously employed. On the approach of February, it is high time they were making arrangements for their spring circuit; and *one month only* remains to devote to their families—for the enjoyment of those private and domestic enjoyments to which we must not suppose they are insensible. I ask if I have magnified their labors? If this recapitulation be not virtually correct?

Sir, I may be told that much inattention may be attributed to the judges. I am not sensible of the correctness of this allegation. I am satisfied however, that be their faults what they may, your dockets under existing circumstances, will remain interminable.

If the observations which I have been indulged in making, be correct, it must be manifest to the committee that an evil of no ordinary grade exists. It must be equally evident that it is high time the legislature should interpose, and administer justice with an even hand.

So far as I have been able to understand the motives which induce opposition to this bill, I have heard but one solitary objection. Their fears have been alarmed, their apprehensions excited, that the constitutional court will be held *exclusively* at Columbia. I cannot anticipate this as the consequent effect of the bill on your table. I coincide perfectly with the gentlemen that this court should be held alternately at Charleston and Columbia. But when they forbode this loss of the child of their affections, by what motive can they suppose the fell destroyer was actuated? To all human actions there is some prompting principle. Will it be said, that to relieve the judges from a portion of the services, the court will be confined to Columbia? Sir, the current of opinion is at this day very different. In a country like this, where the distinctions in society are so few, neither the influence of wealth, or the trappings of office can eradicate from the minds of the people, the idea, that the highest officer is their servant. They know they have the right to and will command their services whenever necessary, for the benefit or convenience of any portion of the state.

Sir, it can never be to the interest of the upper country to remove this court to Columbia. Every view of their interest forbids it. The great object of this bill is to relieve them from a docket, which, for the last eight years, has defied every attack. Abolish the court in Charleston, and every object in view will be frustrated. The consequence of such a measure would be the accumulation of their own docket to an extent perhaps never equalled. If the evil is now great, it would necessarily magnify it.

But another view of this subject will shew the fallacy of that argument. The upper country it is said, (with what propriety I will not pretend to assert) are careful of their funds even to a fault. The abolition of the court in Charleston sir, would lay your treasury under contributions, to an amount almost equal to half the amount of your judicial expenditures. Can it then be believed, that this quarter of the state, so tenacious of their treasure, would incur such an expense with no possible advantage, to say nothing of the injury inflicted on their Eastern brethren? That they would by such measures, create a docket which would stand as an insuperable barrier to the attainment of their wishes?

Experience, that surest and best guide in all our endeavors to promote public or private good, teaches us a lesson of more importance in relation to this question, than all the calculations and predictions which can be made. It satisfies us that a radical change is necessary; and in none of the arguments of the gentlemen opposed to the bill, have I heard a substitute proposed.

Under a firm conviction that these evils should be speedily remedied, conscious as I am that relief can only be afforded by the alteration of the constitution, I feel bound to vote for the bill now before the committee. I should do injustice sir, to that patience with which I have been indulged, if I were to detain you longer.

[To be Continued.]

SENATE.

Monday, December 9.

After the disposal of some private business, the Senate took up the report of the committee to whom was referred the resolution respecting judge Brevard's Digest of the laws of this state, viz. That they have had the same under their consideration, and are of opinion that the resolution passed the last sitting of the legislature of this state, giving to each member of the Senate and House of Representatives, one copy of Brevard's digest of the laws of this state, is an infringement on the constitution thereof, as it has a tendency to increase the compensation of the members of the legislature. Therefore resolved, that the said resolution passed the last session, be rescinded, and that the copies now remaining in the offices of the treasurers of the upper and lower divisions of this state, be sold by the treasurers whenever they can obtain a fair price therefor, and that they fund the proceeds of the sale thereof in the Bank of the State of South-Carolina—. Your committee further recommend the following resolution, viz.

Resolved, that all the members of the legislature, who have received copies of judge Brevard's digest of the laws of this state, be required by the comptroller general, to return the same to the treasurers of the upper and lower division, to be by them disposed of whenever they can obtain a fair price for the same, and that the proceeds of the sales thereof be funded in the Bank of the State of South-Carolina.

The Senate having considered the first resolution contained in the report of the committee, agreed thereto. The second resolution being amended by the Senate, by striking out the following words: "To be by them disposed of whenever they can obtain a fair price for the same, and that the proceeds of the sales thereof be funded in the Bank of the State of South-Carolina."

Dr. Screven moved, that the resolution so amended, be postponed until the first day of January next—and the question being taken on the motion, was decided—Yeas 21—Nays 17.

So the question was determined in the affirmative, and the report amended accordingly, and ordered to be sent to the house of representatives.

The bill to make all the officers of the militia of this state elective, was taken up for a second reading, and made the special order of the day for Wednesday next, and ordered to be printed.

Wednesday, December 11.

The bill to alter the 3d sec. 10th article of the constitution of this state, was read a second time, debated and passed by a constitutional majority, 34 to 6. The bill making officers, except generals, elective by their commands, was read the 2d time, debated and passed.

The bill allowing clerks and commissioners in equity who were elected during good behaviour to retain their offices, was read the second time, debated by Messrs. Tucker, Keith, Felder, Black, Geddes, Levy and Clendenin, and passed 24 to 14.

HOUSE OF REPRESENTATIVES.

Tuesday, December 10.

Mr. O'Neal presented the following resolution, which was ordered to lie on the table: Resolved, that no person holding the office of professor in the South-Carolina College, shall, during the regular college session, undertake or engage in any business or employment for any person or persons, either in merchandize, the practice of physic, or law, or in steadily preaching in any place, or to any society or congregation of people, or in discharging the usual parochial duties incident to the office of regular clergymen.

A bill from the Senate to authorise, under certain regulations, the hawking and pedling of goods, wares and merchandize, the growth and manufacture of the United States, was read a first time, and ordered to a second reading to-morrow.

Mr. Bull, pursuant to notice given, introduced a bill to amend an act, entitled, an act to establish a bank on the part and behalf of the state of South-Carolina, which was read a first time, and ordered to a second reading to-morrow.

Mr. Yancey, from the committee on the judiciary, on the letter of the hon. judge Desaussure, reported thereon; ordered for consideration to-morrow.

The house then proceeded to a second reading of the bill to alter and amend an act, entitled, an act to limit the time of service of certain officers, who have heretofore held their offices during good behaviour, and for other purposes therein mentioned, passed the 17th of December, 1812, so as to exempt certain officers therein mentioned, who were in office at the time of the passage of the said act, and who held their offices during good behaviour, from the operation of the said act. The passage of this bill was advocated, we understand, by Messrs. Hayne, Bull, Pinckney, Huger, Ravenel, Noble, Yancey, Harper and Wilson, "because it was an act of injustice on the part of the state to deprive of their office those who had been appointed and commissioned during good behavior, and who had abandoned other prospects and pursuits more profitable, in consequence of the permanence of the tenure by which they hold their offices; that it would be a faithless act to violate the contract made with them by the state; that while the state exacts justice from others, it should always be prepared to render justice itself; that although there is no legal mode to exact justice from the state, this is a strong reason why it should be granted of its own voluntary impulse; that it will be the same thing in principle to take away a part of the salary which the state has contracted to give one of its officers, as to alter the tenure, for the permanency of the tenure was really a part of the compensation. Some of the speakers contended that the law was unconstitutional, being a breach of contract; and as tending also to deprive a man of his freehold, contrary to the provisions of that instrument. Messrs. Glascock, Downs and Farrow, who opposed the bill, urged that a state had a right to violate its contract with individuals, if public expediency requires it; that the person who accepts an office ought to know the legislature have power to change the tenure of his office; that there is no contract between the state and the individual, for all contracts are reciprocal if the state be bound to retain the incumbent in office, the incumbent would be bound to remain in office at the pleasure of the state, &c."

[The above sketch is copied from the Telegraph. The remarks of only one gentleman have been reported at length for us, which we insert below, as containing a very correct view of the arguments on this question.]

Mr. J. L. WILSON said, he had read with much attention, the opinions of legal gentlemen; he had heard the arguments of honorable members here, for whose talents I have a high respect; yet the law complained of, stood in his opinion untouched by any constitutional provisions, and the power of the legislature to create it, remains wholly unabridged. In support of this opinion, said he, I shall turn to the constitution, and consider it with attention. The second section of the 9th article says, "that no free "man of this state, shall be taken or imprisoned "or *deprived of his freehold*, liberties or privileges, or outlawed, or exiled, or in any manner "destroyed or deprived of his life, liberty, or "*property, but by the judgment of his peers, or* "*the law of the land*; nor shall any bill of attainder, ex post facto law or law impairing the "obligation of contracts ever be passed by the "legislature of this state." From the words of this section, it is argued that to execute the act of 1812, against the incumbents then in office, *during good behavior*, will be depriving t[illegible]
of a "freehold" without judgment by [illegible]
or the law of the land. That as[illegible]
nifies an estate for life; an o[illegible]
havior is a freehold, it[illegible]
Admit this reas[illegible]
might be so[illegible]
the threshol[illegible]
amplification o[illegible]
to all the difficu[illegible]
freehold, as used in[illegible]
of one constitution on[illegible]
affixed to it, intended by [illegible] on-
stitution. What was this [illegible] by referring to Magna Charta, he wi[illegible] ceive that our second section of the 9th article of the constitution, is almost a transcript from it. No legal gentleman who hears me will dissent from me, when I advance this assertion, that our members of the convention, intended to use the word freehold in the same sense as used in Magna Charta, which instrument they were copying, when the section noticed was framed. Let us enquire what was the common law definition of a freehold at the time it was introduced into Magna Charta? It was this—a freehold, *or frank tenement, liberum tenementum*, is land or tenement which a man holds, in fee-simple, fee-tail, or for term of life. By the common law, a freehold cannot commence in future, but take effect immediately, either in possession, reversion, or remainder; and in this sense, freehold is used in contradistinction to *villinage*. Freeholders were formerly called *milites* or knights. The refinement of lawyers at a subsequent time, made
ces hold for life by patent, a freehold; but
was not the freehold intended by Magna Ch
nor was there any such construction at the
of the obtaining Magna Charta. Let us a
to the signification of the word freehold i
constitution, and enquire what is the meani
it there? Evidently the signification wh
have argued, should be given to the same w
Magna Charta. In the 4th section, and 1
cle of the constitution, when the qualificat
voters is expressed, is the first place we fin
word freehold used. This section reads t
"Every free white man of the age of twent
"years, being a citizen of this state, and l
"resided therein two years previous to th
"of election, and who *hath a freehold o*
"acres of land, or a town lot, of which h
"been legally seized and possessed at le
"months before such election, or not having
"freehold or town lot, &c. &c.

Here, the meaning of the word *freehold*
nifest, and apparent to every one who read
The convention intended that each elector s
be attached to the country, that he should
permanent residence, that he should have a
and a habitation.

Again, in the 6th section of the same a
defining the qualification of a member o
house of representatives, it is required th
should hold a settled *free-hold estate* of five
dred acres of land. Again, in the 8th se
same article, defining the qualification of
nator, we find one of the requisites to be
tled freehold estate of the value of three
dred pounds. If a member elected should
sent himself at your speaker's desk, and sa
all the property he possesses in the world
office of clerk of a court, and ask you if y
not conceive this a freehold in the mean
the constitution, you would unanimousl
no.—This would be the language of t
this would be the language of common
standing unaided by legal research or soph
In construing the constitution, we should a
to the obvious intention of the framers
and when technical terms are used, we
interpret them according to the usual
standing of them. We should not give
the most ample and technical significatio
that which alone is known to professiona
We should establish the most correct m
of the word *freehold*, by asking ourselves
dually what we consider a freehold. A
ing to this criterion, we shall arrive at
decision of the question.

I propose now Mr. Speaker, to exam
doctrine of contracts which has been u
applicable to the question in discussion.
again I distinctly disavow the law as ad
by the supporters of the bill. *Contrac*
general sense, is a mutual consent of t
ties, who voluntarily promise and oblige
selves to do something—pay a certain
the like. *Contract*, in its common law
cation, is an agreement or covenant b
two, with a lawful *consideration* or *cau*
this consideration in law is either next
or money. A contract must be so cert
complete, that each party may have a
upon it. A promise for a promise is a g
sideration, where the same is reciprocal
tual and made at the same time; but th
mises must be co-extensive with the co
tion. Any person who will apply the
sites of a contract to the present questio
see that there is no legal contract bin
the state. The officers contemplated
bill, may resign at pleasure. The stat
fore, by the solecism contended for, is b
the officer, and not the officer to the stat
both parties are not bound, and the p
made are not reciprocal. But Mr. Spea
this doctrine I go further, and advance
that all contracts or agreements which
gainst the general policy of law, or re
to justice, are void. The legislative act
the bill now proposes in part to repeal, l
expressly, that it is repugnant to the
our constitution, that the officers of state
not be rotatory. This alone would be s
reason. It is admitted on all sides that
gislature might *destroy the office*. Wou
more unconstitutional, or unjust, to m
tenure of the incumbent, than to de
office? Surely not. As far t
Speaker, as the constitution
is concerned, I oppose t
trine of contract i

There is
ground
[illegible]
clause
at the third re
, with what talents
ed by a very lean majo
gitimate scion, and I disclaim
Mr. Speaker, that indisposition
my saying more on this subject. Before
have the legislature do a faithless act;
would be instrumental to the domestic
a single family in the republic, I would
voice to such a pitch of remonstrance
who hear me should bear witness, that
Rome fell, Cato was honest.

The question on the passage of the
carried, 67 to 44.

AYES—Thomas Bennett, Esq. S
Messrs. Adams, Arthur, Bell, Bourke
Ball, Butler, Burgess, J. Carr, T.
Campbell, J. Campbell, Clement, Cog
ry, Darby, Daniel, Dargan, Doyley,
Garret, Gaillard, Godard, C. Griffin
Harper, Hayne, Huger, Jerman, Jenkin
Kennedy, Kirksey, Lance, Lawton, S.
Lee, C. Miller, A. Miller, Mitchell, M
M'Michael, Morris, Morgan, Noble,
Pinckney, Player, Poinset, Pope,
Rawls, Reardon, Rhodes, Richardson,
W. Seabrook, W. B. Seabrook,