a Senator to succeed Mr. Mangum.

MR. HOLDEN-Dear Sir: The accompanying arthe most uncertain signification of the word. ticle is upon a subject of great interest, and especially to North Carolina at this time. I have given it much consideration, and it has cost

me some time and labor, of which I am desirous that any who may choose may derive the benefit. It may not convince any one who holds a different to them which might not otherwise have occurred. By giving it an insertion in your paper you will

Your obedient servant. ROBERT STRANGE. Raleigh, January 13th, 1853.

AN ARGUMENT upon the question whether the Eccutive of the State has, under the Coning Senators.

At the last session of the North Carolina Legisla-

one he appointed by the Executive of the State? and bewilder these simple persons. And accordingly that might occur or happen. ingenuity has been taxed to prove that these few plain

exist with no one occupying it, and yet not be vacant. ground. Besides, why should the Convention use the word " otherwise," so extensive in its signification, if on y two possible events were contemplated.

Again, it is said that the use of the word " happen' tainty very proper in reference to all future events; and not leave it to the most vague inference? supposing happen does imply uncertainty. But it

thing, to fall out."

Walker defines it : " Fall out by chance, to come to pass, to light on by accident.'

Webster defines it : " To come by chance, to come without one's previous expectation, to fall out," For example: "There shall no evil happen to the just." Prov. 12 chap., 21 verso. 2d. To come, to befall.

For example : "They talked together of all these

3d. " To light, to fall, to come unexpected." comes to pass happens, whether regularly in the course of things, or particularly and out of order." Mr. Crabbe therefore makes happen a most compre-

"Occur" is defined by Walker " to be presented to to clash, to strike against, to meet."

Bailey defines it: " To meet, to come in the way of offer or present itself." Webster defines it, primarily: "To meet, to strike

against, to clash, (but this, he says, is obsolete.) 2. " To meet, to come to hand, to be presented to the mind, imagination or memory," 3. "To appear, to meet the eye, to be found here

4. "To oppose, to obviate."

Crabbe has not the word at all. Occurrence, Walker says, " is incident, accident,

event, occasional presentation.' Bailey says, "a casual advanture, rencontre or conjunction of affairs-also news."

Webster says, 1 (literally): " A coming or hap-

Crabbe's definition is, "event, incident, adven-

The phrase, "take place," Webster defines, "to come to pass." Betide-" to come to pass, to happen."

But the occurrence of this vacancy at a particular postponed beyond a certain time, it may occur before it, that is by death or resignation; and if it occurs opinion from myself; but it may suggest something occur at that time it may well be said to have happened even in the uncertain sense of that word.

And again, in speaking of this subject the framers of even a probable event, for which far-sighted wisdom have been clear without this amendment. should have made provision.

ture, notwithstanding an attempt was made to elect a Constitution intended to provide no mode of filling and in this final clause imposed it imperatively as a Senator, it was not done because no one could have a vacancy thus occurring or happening? Is it to duty upon the Legislature coming into session after a senator, it was not done because no one countries a vacancy thus occurring of the con- vacancy, immediately to fill it. Shall then, that is, support the supposed precedents. The question consequently arises, whether the intended to make an arrangement by which that cy? That which had occurred during its recess. the next meeting of the State Legislature, or shall time in the Senate, or that the representatives from whether foreseen or not, but they are enjoined to do any other State would do so ! On the contrary, it at the next meeting after it happens. discovering in language some deep meaning which we are arguing, is to suppose that they intended to clashing of power takes place.

In the first place it is said that in the case supposed for it, and therefore the framers of the Constitution very words of the Constitution? there is no vacancy-that there is an expiration, and did not provide for it. This is in the first place Upon the first question, what imposes upon the not a vacancy. What has expired? Not the office, a pelitio principii, and assumes that it is the clear Legislature the duty of foreseeing a vacancy and probut the term of the incumbent's occupancy. The duty of the Legislature to anticipate a known va- viding for it? Take this supposed obligation in an office still exists, but as there is no one occupying cancy and to fill it, which it will be seen present- unqualified extent, and it would have required of the it, it is vacant. If the office itself had expired it ly is a matter of doubt. Besides that, itleaves out first Legislature that met in North Carolina after the could never be renewed, for the office was created by of the question the possibility and even the proba- adoption of the federal constitution to foresee all the the framers of the Constitution, and by them it was billity that it might not be able to do so. For it is regular vacancies that would occur or happen in the made as perpetual as the Constitution itself. They certain there are many ways in which its practica- Senatorial representation of the State for at least that did not devolve upon any body the power of creating bility might be deleated, one of which has oc- generation, if not for all time. And what qualifies this the office, but only the power of selecting persons curred, in the instance before us. But allowing the obligation, or limits it to the next vacancy that will to fill it. The time for which any one could fill it, argument to be plausible if used merely for insisting occur? Or supposing it to be limited to the next under any one appointment, could not exceed six upon a casus omissus, it will not do in support of the vacancy, what prevents it from requiring the very years, and when that period rolls around the office proposition that the framers of the Constitution pur. Legislature that makes an appointment to foresee its that term does so expire the office becomes vacant to make a case in which representation in the Senate it not as much the duty of any Legislature preceding until some one else is placed in it. This, it is true, would be for a time prevented. For it assumes that the foreseen vacancy as the one immediately preceding seen that there can be. But these three sus and they had not the case spoken of in view at element of political corruption, this subject for party cases it seems hardly possible to doubt are all cases of all, then the assumption that they meant to exclude vacancy. The two last are admitted to be so, and it, is in the face of the fact, and the reason for giving the first must be, unless we insist that an office may the strained interpretation contended for falls to the

taken in its popular sense, does cover the case under this kind of vacancy from the power of the Executive covering the case, and thereby make a casus amissus. to fill. For, say they, happen cannot properly be And indeed it is conceded by those against whom we not have intended such vacancies as would certainly mischief, but by purposely excluding the remedy. from practice and precedent. occur at a given time, and purposely used the expres- And is it not indecent to suppose that our wise foresion that their language might only apply to such fathers, who framed our excellent constitution, a work vacancies as were of uncertain occurrence. Now it that challenges the admiration of the world, were so may not be amiss to remark, that our Constitution short-sighted as not to foresee the very occurrence never have been tolerated, and would have long ago was intended for popular use, and although very ac- which has taken place in North Carolina, or at least curately expressed, the language is free and in accord- to have considered it possible, or that, foreseeing, they had it not been for the first section of the 4th article ance with popular usage. Every one knows that in would not have provided for it? We have already of the Constitution, which is in these words: "The popular language, whether occur and happen are endeavored to show that they could not purposely times, places and manner of the election of Senators strictly synonymous, they are used without much have omitted it, and foreseeing it, what possible rea- and Representatives shall be prescribed in each State discrimination. Even in penning this article, the son could there have been for not providing for it oth- by the Legislature; but Congress may at any time, writer has found himself inclined to use the word er than that in their estimation it had been already by law, make or alter such regulations, except as to the happen in the very places that occur now occupies, done? And indeed if they did foresec it and were places of choosing Senators." It is from this clause and indeed it might probably have been very cor- so determined as the argument on the other side sup- of the Constitution that the Legislatures of the States rect, for a becoming recollection of the instability of poses to exclude the action of the Executive in such derive their whole power, real or supposed, of anticievery thing human renders the language of uncer- cases, why not at once have expressed that design pating vacancies. Whether it is sufficient to author-

is remarkable that in relation to such events there is intended to be represented in the Senate of the Uni- er of filling them, under the very circumstances unno one verb in our language expressing more certain- ted States. This is true; but we deny that the sov- der which the Constitution has conferred it upon them, ty than the word happen. It has divers significations ereignty of the States resides in the Legislatures of admits of some question; but it has long been acsome of them implying certainty, and some of them the States. It resides in the people of the States, and is represented in the Executive and Judicial Thus Bailey defines happen: "To snatch up a branches as well as in the Legislative. The repre- the Legislature next preceding the expiration of a these branches, but the Legislative department can choose to designate, subject, however, to the overrulas immediate action is concerned, the Executive be elect a Senator at a particular time it is pro hac vice, ing always in active existence, exercises for the time an exercise of this general power. But an ineffectual the State is as much the representative of the people tion of a general bill to fix the time of electing Senthings which had happened." Luke, 21 chap., 11 of the State in his own sphere as the Legislature. It ators, which did not pass, be a full exercise of the would have been no more a violation of the rights of power of fixing such time. the States if the appointment of Senator had been con-In Crabbe's synonimes it is said in examining the ferred exclusively on the Executives of the several it the Legislature had made an appointment of a Sensameness of happen and chance, "to happen, that is States than if conferred exclusively upon the Legis- ator, or by a general law had fixed a time of appointto fall out by hap, is to chance as the genus is to the latures. It is supposing a very strange jealousy on ment preceding the regular expiration of the Senatospecies. Whatever chances happens, but not vice the part of the States of their own Executives, that rial term, it might plausibly have been contended versa. Happen respects all events without including they would rather go unrepresented, or only partially that upon the occurrence of such vacancy, the Execany collateral idea. Chance comprehends likewise represented in the Senate of the United States, than utive power to fill it would not have existed. The the idea of the cause and order of events; whatever trust those Executives with the power of appointing former case, we think, would present a question of no Senators; and that, too, in the face of the fact that little difficulty; but that in the latter, the Executive there are admitted cases in which the Executives are power had not been superseded. required to appoint them. We admit that the Legislatures are the more posular hodies, and that a very case before us, has made neither a full nor partial exproper preference is expressed for them in the Con- ercise of its power. It did attempt to elect a Senator, the memory or attention, to appear here and there, stitution in relation to these appointments, but we but it did not do it; and therefore did not exert its deny that it was ever intended to vest in them the power specially. And it has not exerted it generally. power of excluding their States from representation | For the only legislation on this subject is to be found in the Senate. It was not supposed, we admit, that in the Revised Statutes, chap. 72, sec. 1st, and is in if a vacancy existed while a Legislature was in sest these words: " Be it enacted that the Legislature of sion it would fail to fill it, and therefore the Consti- the State shall, whenever a Senator or Senators in the tution provides in so many words that a vacancy oc- Congress of the United Stales, is or are to be chosen, curring when the Legislature is not in session, the at such time during their session, as they shall ap-Executive may fill it till the next session of the Leg- point, elect by joint vote of both Houses of the Generlature. It provides for no more and it provides for no al Assembly, the vote being viva voce, such Senator or less, and there is no more reason for refusing to the | Senators as may be necessary, under the inspection of provision application to a case that comes within its two members from each House; and it shall be newords, than for extending those words by implication cessary to have a majority of both Houses to elect to cases that do not. The strict and States rights doc- any person for that purpose." Now, by this act the trine of construing the Constitution of the United manner of choosing Senators by the Legislature is States is, to adhere to the letter, and if there are any distinctly pointed out; but neither the time nor the

the Constitution as gathered from the Journals of the in the Congress of the United States, is or are to be Convention that formed it, from whence we can infer chosen, &c." When is that? Does this act inform that there was this great jealousy of the Executives us? No! Where, then; are we to find this when? Befall-" to happen, to occur, (generally denoting relation to the election of Senators brought before that nowhere seen it intimated that it has. If it has, the It may therefore be seen that no stress can be laid brought forward by Charles Pinckney, vide Journal paramount, except as to the place where Senators shall on the supposition that the framers of the Constitu- of Convention, page 72: "Article 4th, The Senate be elected. tion selected the word happen as expressing any shall be elected and chosen by the House of Dele-

The right of the Covernor to appoint may or may not happen at the same time with an same page a resolution was submitted by Mr. Dick | tended for to the words happen and vacancy would, may or may not happen at the same tracker would, event uncertain in itself and uncertain as to the time erson, "That the members of the second branch of but no others could. If it be admitted that either of its occurrence, or even if it was only uncertain as to the time of its occurrence, that it happens even in individual legislatures," which passed unanimously. which Senators must be appointed, so as to prevent The same was again passed, June 25th, 1787. The the Executives from filling vacancies, caused by the committee of detail, page 207, provided in their re- regular expiration of terms, it does not follow, when time is not certain, because, although it cannot be port according to the foregoing resolution. In the neither of them chooses to exercise that power, that a draught reported August 6th, 1787, page 217, it was State shall continue without a full Senatorial repre-provided "The Senate of the United States shall be sentation, should a term expire when the Legislature before, it cannot occur at that time, and therefore its chosen by the Legislatures of the several States. Each is not in session. The Governors cannot anticipate a occurrence at that time is contingent, and if it does Legislature shall choose two members. Vacancies vacancy of any sort, because the single power conthe Constitution could not speak in the indicative, but "Vacancies happening by refusals to accept, resignater of the residual of the constitution could not speak in the indicative, but "Vacancies happening by refusals to accept, resignater of the residual of the residu must speak necessarily in the subjunctive mood. tion, or otherwise, may be supplied by the Legislature tion has conferred upon them the power of fixing the They were not merely asserting the independent pro- of the State in the representation of which such va- times at which they shall elect, and because it has position that a Senator's term would expire at a parposition that a Senator's term would arrive a senator of that expiration in until the next meeting of the Legislature," which should anticipate known vacancies and fill them. How connexion with another event, to-wit: the Session of passed. In the final draught of the Constitution, this would be if the question should be raised, and the State Legislature. Now allow it be as certain page 353 it reads: "And if vacancies happen by res- the right disputed, is not free from doubt. But we as you please that the term will expire at a given ignation or otherwise during the recess of the Leg- think it certain that when a Legislature has made no stitution, the power of appointing a Senator in time, whether the Legislature of any State islature of any Sta place of one whose term has expired during the would ever sit was far from being a matter of certemporary appointments until the next meeting of the would ever sit was far from being a matter of certemporary appointments until the next meeting of the tion of a term during the recess of the Legislature; where the Legislature is the Executive may and ought to fill it. has made no appointment in anticipation; and matter of uncertainty whether its session and the amended by adding " which shall then fill such vahas made no appointment in anticipation; and expiration of the Senatorial term would concur, and where neither the Legislature of the State nor expiration of the Senatorial term would concur, and right and obligation of the Legislatures to do so would where neither the Lagislature of the State nor therefore their son-concurrence was a possible and congress has fixed by law the time of appoint-

From all this it is very plain that the Convention Why should we suppose that the framers of the was anxious to provide in all cases for representation, vention from New York, for instance, purposely at its rext meeting, fill such vacancy. What vacan-

The latter part of the 2d clause of the 3d section is it not certain that the representatives from each It is urged, however, that if the Legislature had of the 1st article of the Constitution of the United State were anxious to secure for the State they re- the power of foreseeing the vacancy, and therefore States declares: "And if vacancies happen by resig- presented as full a share in the Government as pos- the power of filling it, that the right of the Executive er a State Executive could make an appointment in nation or otherwise during the recess of the Legisla- sible? Any one who will examine the proceedings is gone, that the power of the Legislature is general, ture of any State, the Executive thereof may make of that Convention will see with what solicitude each and that of the Executive is special. It is admitted temporary appointments until the next meeting of the State endeavored to secure for herself as much politi-Legislature, which shall then fill such vacancies." cal power as possible, and that even then the idea of case, but that power is co-extensive with that case, Now, it would strike a plain man on the 4th of March sectional power had entered the public mind. For and we can see no other limitation upon it; and inexpired, that a vacancy has happened. For there representation of particular States those in the same the Executive is bound to exercise the power as soon as will be nobody then in the office, and it will of course region of country voted together, while those in the the case occurs. As both the general and the special be vacant, and as the Legislature will not be in ses- opposite voted against them. And besides, they had power are derived from the same source, it is not seen sion at that time, this vacancy will have happened already made the Senate one of the most important why that source is not as effectual to communicate during its recess. An unsophisticated mind would constituents of the Government, and declared that it power in the one case as in the other. In this matte quite at a loss for any argument against a propo- should be composed of two Senators from each State. Ler both the State Legislatures and the State Execusition so plain. But there is a proneness in educat- But to suppose that they used the word happen pur- tives are trustees, and if one does not fulfill the trust ed and ingenious minds to exercise their ingenuity in posely for the reason assigned by those against whom | which the other may and does, it is not seen how any

would not naturally occur to plain or illiterate men, exclude a State (it might be their own) from a part of The two questions, therefore, come back upon us; and to extract from it some hidden element to astonish its representation in the Senate, under circumstances first, is the Legislature bound to exercise the power of appointment, foreseeing a vacancy before it occurs? But it is said that it would have been indecent to and secondly, will its so foreseeing it, whether it foreseen vacancy would occur, would omit to provide of the right and duty of so doing in the face of the

scramble and management, in the very heart of th

But it is said practice has legalized the appoint nent of Senators by that Legislature which immedi-But it is not a casus omissus, for it is clear that ately preceeds the happening of a regular expiration the language used by the framers of the Constitution, of a Senatorial term. Practice can never put a feature into the Constitution which was not there before consideration, and those who say it does not have to The most it can do is, when the language of the Conin this part of the Constitution, instead of occur or wrest the language from its popular signification stitution is doubtful, to furnish evidence of its true some other word, was for the purpose of excluding and draw in extraneous considerations to prevent its interpretation, but it can never be of use when the language of the Constitution is plain. The same body which makes one practice can make another; and applied to an event which will certainly take place are arguing, that the language does cover the case, thus if we were governed by practice we should be at a given time; and when the framers of the Con-unless the expressions are to be understood as used no better off than those nations, who, having no writatitution used it in reference to vacancies they could to provide for it, not by supplying a remedy for the ten Constitution, only know what their Constitution is

The truth is, the filling of a vacancy in the Senate of the United States by the Legislature of a State, been resisted as an act of high-handed usurpation, ize the Legislatures to anticipate vacancies and fill Next, it is said that the sovereignty of the States was them, and thereby take from the Executives the powquiesced in, that the Legislatures may pass general laws declaring that a Senator should be elected by sentation of this sovereignty is apportioned among Senatorial term, or at such other times as they may exercise no portion of this representation when it is ing legislation of Congress. And that, as the Legisnot in session, and therefore, during its recess, so far latures may pass a general law, therefore, when they heing all the active sovereignty of the State which is attempt to do so can no more be said to be an exercise not exercised by the Judiciary. The Executive of of that power pro hac vice than would the introduc-

Upon the second question, it is admitted that

But, however this may be, the Legislature in the cases in which a slight departure is deemed necessa- place is. The place is, by implication, for as it is to pening, hence any incident or accidental event, that which happens without being designed or expected, any single event."

Cases in which a single departure is deemed necessary place is. The place is, by implication, the Legislature, wherever the Legislature is must be the place of doing it. But what is said about the time? "Whenever a Senator or Senators

may be supplied by the Executive until the next terred upon them is to fill vacancies when they have meeting of the Legislature." Page 237 it was pro- happened during the recess of the Legislatures-the posed to alter this clause so as to read as follows: Legislatures cannot on account of any inherent pow-

> precedent are against us. If authority and precedent precedent is against us; but that this impression hav-

The first precedent rolled on is that of Mr. Lanfrom a note made, as we understand, by Judge Story himself in his commentaries on the Constitution, Senator. It was decided by the Senate that he could not make such appointment. The facts were that Mr. Lanman's term of service as Senator expired on the the Senate on the 4th of March. The Governor of Connecticut, in the recess of the Legislature (whose session would be in May,) on the 9th of the precedin the Senate after the third of March. The Senate by a vote of 23 to 18, decided that the appointment actually occurred." Here then 18 out of 41 Senators held that the Governor had, like the Legislature, the right of anticipating. In this the minority was overneither the majority nor the minority in those early days thought of holding or at least putting their depen" had such peculiar meanings that the Governor could not appoint at all; but distinctly upon the ground that he could appoint if he had waited 'till the vacancy eccurred.

And Judge Story's own remarks upon the feature of the Constitution under consideration, are Constitution, chap. 10, sec. 725,page 203, vol. 2, he says: "As vacancies might occur in the Senate durly, the same clause proceeds to declare : " And if vacancies, &c." It does not appear that any strong obdoes not expire, but the incumbent's term, and when posely adopted language by using the word happen, regular termination and provide for it? And why is opposition. There seem to have been three courses presented to the consideration of the Convention: is only one mode by which a vacany may occur—
there are others, to wit: by death or resignation, and although possibly there may still be some other, it is

would be for a time prevented. For it assumes that the interest and they did anticipate the very thing which the argument it to provide for it? See what a clashing of power is here brought about; and can it be that the framers of the State Legislature, or to allow the Legislature of the State Legislature, or to allow the Legislature of the Constitution intended purposely to place this currence, or to confide a temporary appointment to was deemed the most satisfactory and convenient course. Confidence might justly be reposed in the State Executive as representing at once the interests afterwards resigned, and resigned for the reason measures of knowledge and responsibility to insure a judicious appointment." It will be observed in the very outset of the paragraph that Judge Story uses occur as conveying the same idea as the word happen in the Constitution. It never occurred to him to criticise the words " happen" and " vacancy," nor that there was in the Convention a prudent distrust of the after the Senatorial bill had passed its second read-Executive of the States, nor that Lanman's case ought to have been put upon any other ground than that the

And what is still more to the point, Judge Story evidently understands the Convention to have adopted the third alternative of confiding the temporary appointment to some select State functionary or body, to-wit: the Executive, in opposition to leaving the vacancies unfilled until the meeting of the State Leg- talked against time, so as to consume all the moislatures, and to allowing them to provide at their pleasure prospectively for their occurrence. And yet it is now contended, in the face of the language of is here sought to be created that these gentlemen the Constitution and the understanding of its commentators almost cotemporaneous with its formation, that the course adopted was to allow the Legislatures to provide at their pleasure prospectively for the occurrence of these vacancies and that the Executives should be excluded. Both Lanman's case, therefore, and the above paragraph from Judge Story, are an-

thorities in our favor. The next authority cited is the case of Mr. Sevier, from Arkansas. We have not at hand any statement of that case, but take it from the Speech of Mr. Brooke in the Senate on the discussion of the late case of Dixon and Meriweather. According to that statement, Mr. Sevier was received, and of course the case

But Mr. Brooke informs us that " although the expiration of his (Mr. Sevier's) term was fixed by law, as in that of Lanman, yet from the peculiar circum-stances of the case the Legislature could not have provided for the vacancy, and therefore the appointment of the Executive was sustained. " What those peculiar circumstances were is not stated, nor do we remember what they were. At any rate the case is not put upon the ground that there was no session of the Legislature. And if it is to be taken that the Legislature did sit before the occurrence of the regular vacancy, and some circumstance prevented their making an election, this is a direct authority for our position. For there was in our case a moral impossibility for the majority of both houses to unite upon any one man. At any rate, the case is no au-

thority against us. The remaining case is the late one of Dixon and Meriweather. In December, 1851, Mr. Clay, the great American statesman, resigned his seat in the declared, for the bulk of the Whig party on the Senate to the Legislature of Kentucky, then in session, to take effect in September following, and the Legislature proceeded forthwith to fill the vacancy appealed to Mr. Cherry and those acting with him that would then occur, by the election of Mr. Dixon. The Legislature soon after adjourned. In June following Mr. Clay died, leaving his office vacant by death, and the Governor proceeded to fill that vacancy by the appointment of Mr. Meriweather. Mr. Meri weather took his seat and held it until the adjournment of Congress; and, on the next meeting of Congress on the first Monday of December last, the questions came up whether either of these gentlemen, and, if either of them, which was entitled to the seat; and the Senate declared that Mr. Dixon was. Now we do not perceive that this decision is either for or against the argument we have submitted. The question in our case is not involved. A vacancy was made certain at a particular time while the Legisla- early period of the night session a message was ture was in session; and the Legislature, as according to our argument it may have had a right to do. proceeded to fill it. While the Legislature was not in session a further vacancy occurred, and the Gov-

ernor proceeded to fill that, Having thus considered this important question, both upon reason and anthority, we would add that of the States, nor that there is any peculiar magic in It is nowhere given us. In saying this we take it it is a maxim in all construction that it should be its language as it now stands to exempt it from the for granted that Congress has not legislated upon the made ut res magis valeat quam percat; and also that the ordinary rules of construction. The first proposal in subject. We are not aware that it has, and we have general purpose of the maker of any instrument should be kept in view. Now if the construction body will be found in a draft of a federal government Constitution makes its legislation upon this subject contended for on the other side is admitted, the gen- no doubt, from the beginning by the Speaker and eral purpose of the framers of the Constitution that every State shall have its part in the government, will himself—introduced a Resolution to send a mes-

## STANDARD



RALEIGH, WEDNESDAY, JAN. 19, 1853.

"LAST DAYS OF THE SESSION."

be opposed to sound reason, they ought to be over- December. Why, the bare idea of such a view of of New Hanover, addressed the House against ruled. But it is believed that neither authority nor the matter is preposterous. Every body here, of the decision. The Register says they spoke to coning been taken up, arguments have been invented to both parties, knows who the revolutionary leaders sume time, so that twelve o'clock might arrive and were, and that they are Whigs. The Whig Speak- the Legislature be adjourned; but the facts are a. man, a Senator from Connecticut, and we take the er himself bore testimony against Messrs. Cherry, gainst the Register, for by Mr. Martin's Resolution The question consequently arises, whether foreseen or not but they are not enjoined to fill it before it happens, statement of the case and the decision of the Senate Fagg, and others; and Mr. Cherry, in turn, bore it was provided that, as soon as half past eleven whether foreseen or not but they are enjoined to do testimony against the Speaker. The Speaker de- arrived, Mr. Strange's motion to send a message to vol. 2d, page 201: "In the case of Mr. Lanman, a clared that he violated the rules of order and the Senate to rescind the joint Resolution to ad Senator from Connecticut, a question occurred wheth- prevented an adjournment, because, though a par- journ at twelve o'clock would come up, and there the recess of the State Legislature in anticipation of ty in the movement with Mr. Cherry and others, fore Mr. Hill, Mr. Strange, and others, could no the expiration of the term of office of an existing he perceived a disposition on the part of the Demo- have consumed the time up to twelve o'clock. These crats to make concessions-to do what he consid- gentlemen were speaking in good faith against the ered justice to their opponents; and yet in the face decision of the Speaker-a decision that would not Now, it would strike a plain man on the 4th of March and sectional power and entered the public limit. The President had convoked of this—in direct contradiction of the admission have been sustained by the House, had a vote been sustained by the of the Whig Speaker himself, the Raleigh Register taken upon it. The Register knows very well that declares that " the locofocos were appealed to, again during this entire movement every Democratic ing February appointed Mr. Lanman Senator, to sit and again, to give an intimation even that they member of the House, and many of the Whig would do justice; but no, they refused to give any members, were striving to get to a vote to rescind could not legally be made until after the vacancy had such intimation, ready to let the Legislature extire, the Resolution to adjourn, while Mr. Cherry and and leave no Senate at all, rather than do justice others, during the whole of Wednesday night, oc--rather than hazard the failure of their iniquitous cupied the position that no vote should be taken ruled by a majority of only five. But it seems that gerrymander." The Editor of that paper must upon the report of the Select Committee, and that have tasked his talent for misrepresentation when unless the Democrats would propose a plan by words of the Constitution are not to be understood in suppose that the Legislature at some time before a makes the appointment or not, deprive the Executive cision upon the grounds, that "vacancy" and "hap- he penned that paragraph. It is totally and entirely untrue, and every body here knows it to be they would consume the time till twelve o'clock. so. In the first place, this "iniquitous gerryman- adjourn the two Houses, and thus dissolve the gorder," as it is called, was the work of a Whig and a ernment. And on Thursday morning these revo-Democrat, appointed on Committee by the Whig lutionary leaders went still further, and assumed worthy of notice. Story's commentaries on the Speaker himself-it was a fair and just bill, for it the extraordinary position that unless the rules gave the Democrats 22 Districts, the Whigs 22, were suspended and the bill was permitted to pass ingthe recess of the State Legislature, it became in- and left 6 in doubt; and it would have passed, if its third reading, they would discuss Mr. Strange's dispensable to provide for that exigency. According- the vote could have been had upon it, in a Whig motion to send a message to the Senate proposing House and by the aid of Whig votes. But the to rescind, until twelve o'clock, and thus break up jection was urged in the Convention against this pro- revolutionary leaders determined that it should not the government! The Register knows these facts pass-they preferred a dissolution of the govern- to be as we have stated them; but that paper will ment to the losss of what they considered a party never admit either these facts or any other fucts either to leave the vacancies unfilled until the meeting advantage, and so they spoke on until they were connected with this unprecedented movement on overruled and silenced by their own Speaker; and the part of its party friends. their conduct on the occasion was of such a char- We have shown in this and in articles which some select State functionary or body. The latter acter that the Speaker was compelled by a sense have preceded this, the following facts: of duty to rebuke them from the Chair, which he and wishes of the State, and enjoying all the proper that, in interposing to prevent the final stroke of tricts, to the Whigs 22, and left 6 in doubt. revolution and disorder, he had taken action against the Whig party, which had placed him in the

The Register says that on Thursday, the 23ding, and when an effort was made by the revolu-Governor had appointed before the happening of the tionary leaders to suspend the rules and force it through its third reading before twelve o'clock, the down his party friends, he was compelled to violate hour fixed for adjournment-the Democrats op- the rules of order of the House. posed the suspension of the rules, and that " Messrs. Hill, Strange, and others of the locofoco leaders, ments left before twelve o'clock." The impression were parties to the revolutionary movement. Nothing could be more unfounded or unjust, as the facts

On Wednesday the 22d, after the Senatorial bill had been discussed for some time, and when it was apparent that Mr. Reid's bill would pass if a vote could be had upon it, on motion of Mr. Puryear, the whole matter was referred to a select Committee of two, with directions to report that afternoon. This Committee, as we have stated, was appointed cannot be cited as an authority for the exclusion of by the Speaker, and was composed of Messrs. Avery and Philips, a Democrat and a Whig. The Committee reported in the afternoon, and their report was made the special order for seven o'clock. The night session came, and it was announced by Messrs. Cherry, Caldwell, Miller, and others, at the outset, that the report of this Committee should not be adopted, and that unless the Democrats would give them a bill, and give it to them then, which would suit them as party men, they would consume the time of the House by speaking and by motions to adjourn, until twelve o'clock, when, by force of the joint Resolution, the two Houses would stand adjourned. And this course was pursued by these members-Mr. Cherry acting as he floor-until half-past ten o'clock, when Mr. Dobbin to consent to rescind the joint Resolution to adjourn, and then he had no doubt some plan could be proposed which both parties could agree upon; and Editor does not know himself what he is writing he entreated these gentlemen not to endanger the very existence of the government for the sake of carrying out a party scheme, assuring them at the same time that there was every disposition in one, and we shall resume and continue the considhis party friends to meet them in a spirit of com- eration of it in future numbers. promise. The appeal of Mr. Dobbin produced no effect upon these reckless disorganizers. At an received from the Senate proposing to reseind the joint Resolution to adjourn at twelve o'clock; but the Speaker did not see fit to submit this message to the House, though by doing so he could at once have put an end to the disgraceful scene which was being enacted by some of his party friends. When half past eleven arrived, nothing having been effected, Col. Puryear-as had been arranged, tion selected the word happen as expressing any peculiar uncertainty, but on the contrary it seems they could not have made a better selection to cover all possible cases.

But, say they, happen can never be applied to an event certain in itself, and certain in the time of its occurrence. Yet, even if this be so, when two events, are placed by those of the first out of, &c.," which the negative. It was next submitted by the content of uncertainty; and it may well be said of the certain of uncertainty; and it may well be said of the certain of uncertainty; and it may well be said of the certain of the first out of, exercised the special content of the state ould appoint till the becaution for the first out of, execution for which we content of the state ould appoint till the becaution for the first out of, execution for which we content of the state ould appoint till the becaution for the forms and on the ginning of the next assistion of some extent rendered invalid, and a State for all the session instrument be by law, that the election of Senators should takaplace that important instrument be by law, that the election of Senators should takaplace that important instrument be the state of the senate to rescind the Resolution to adjourn at twelve o'clock that night, provided the the constitution, as far as is seen, any possible good. But the constitution for which we contend works no mischief, interferes out the senation of the term. And can any one doubt that in gument we promised in our last, from the peaceting the expiration of the sensition of a regular term. Congress might overrule it by as far as is seen, any possible good. But the constitution, as far as is seen, any possible good. But the constitution of the term. Had the second branch of the Governor to appoint a twelve o'clock that night, provided the constitution of the term. Had the election of Senators should takaplace the constitution of the sensor of sendent very law, as is seen, any possible good. But the constitution of the term. Had the constit

this motion for the obvious purpose of preventing the re-enactment on Thursday of the scenes of Wednesday night; but before the vote was taken on his motion, the House adjourned. On Thurs day morning Mr. Strange's motion came up first in order, as the unfinished business; but at the request of Mr. Martin, of Franklin, he withdress it to make way for a Resolution introduced by him to the effect that the Senatorial bill should be taken up and considered until half past eleven o'clock and that, when this time had elapsed, Mr. Strange, motion should be taken up and acted upon. Be fore half past eleven arrived amendments had been made to the bill of a character which satisfied tha Whig leaders, and the bill, as amended, passed its The Raleigh Register is still engaged in the second reading; and the Speaker then decided that desperate work of endeavoring to produce the im- by force of Mr. Martin's Resolution, the rules were These are our views of this case upon argument; pression that the Democrats of the House of Com- suspended and the bill could be put upon its third mons are responsible for the unfortunate scenes reading. From this decision Mr. Reid, of Duplin. which took place in that body on the 22d and 23d appealed; and Mr. Hill, of Caswell, and Mr. Strange,

| journ the next day at twelve o'clock ; and he mad

1st. That the bill, as reported by Messrs. Avery and Philips, assigned to the Democrats 22 Dis-

2d. That the Whig leaders vehemently opposed this bill, and openly declared, on Wednesday night the 22d, that before it should pass they would revolutionize the government.

3d. That the Speaker, who was a party to the revolutionary movement up to a certain time, changed his course, but, in order to check and hold

4th. That the Speaker rebuked Whig leaders for their violent and disorganizing conduct; and that Mr. Cherry retorted, and admitted that, while he was responsible for his share of the revolutionary movement, the Speaker was equally responsi-

ble and equally censurable with himself. 5th. That on Thursday the 23d, the Whig leaders having got the bill into a shape to suit themselves, insisted on passsing it through its three readings in violation of the rules of order; and declared that, if they were not permitted to do so, they would speak against the Resolution proposing to the Senate to rescind, until twelve o'clock, and

thereby dissolve the government. 6th. That fifteen Whig members, at ten minutes to twelve o'clock on Thursday, voted against concurring in the Senate proposition to postpone the period for adjourning-thereby evincing, to the last moment, a determination to overturn the gov-

7th. That the Whigs had a decided majority in the House-that the Democrats were, therefore, powerless-and that the Whig leaders were and are, as a matter of course, responsible, from first to last, for the disgraceful and disorganizing movements of the 22d and 23d December.

We repeat, we have established these facts beyond all cavil or question. There they stand, and there we intend they shall stand. The Register may bluster and misrepresent, but the course of that print is well understood-it amounts to nothing. Intelligent gentlemen smile as they read its pretended account of this matter, while the uninformed are puzzled to reconcile its conflicting statements, and at last come to the conclusion that the about, or what he wishes to establish.

We have written more than we intended when we commenced; but the subject is an important

## CITY ELECTION.

At an election held in this City on Monday last, William D. Haywood, Esq., was re-elected Intendent without opposition,

The following gentlemen were elected Commissioners: Western Ward, S. W. Whiting, and A. M. Gorman. Middle Ward, Seaton Gales, T. R. Fentress, and C. B. Root. Eastern Ward, Eldridge Smith and M. B. Royster.

Messrs. Christophers and Taylor were re-elected Constables for Districts No. 1 and 2.

We lay before our readers to-day the ar-