

solution; with these views it is returned with an assurance that any other resolution on this subject which may pass your house, will be respectfully considered by the senate.

By order,

L. Gassaway, Ck.

By the Senate,

February 8, 1831,

Gentlemen of the House of Delegates,

The senate returns, and respectfully requests the reconsideration, by your honourable body, of the bill making certain changes in the constitution in relation to the removal of proceedings in criminal cases.

The evil which the bill is intended to remedy, is great and oppressive, to the people in many sections of the state, and is daily increasing. At present the power of removal, in minor cases of felony, and in those of misdemeanor, is greatly abused. The power rests exclusively with the accused—with the very person who is most deeply interested in the matter, and whose judgment is therefore the least to be trusted. By these removals, witnesses are compelled to attend at great inconvenience and expense in distant places. In truth, the present system of removal is so burthensome and expensive, that in many cases it is impossible to secure the attendance of witnesses, and the consequence of their nonattendance, an exemption from condign punishment necessarily follows. Thus in many instances the hardened and incorrigible depredator is let loose on society, again to repeat, or rather continue his system of petty depredation. This immunity from punishment, robs the law of its terrors and holds out inducement to crime. The inconvenience too, to the counties, to which cases are removed, is under this system a great grievance. Courts and juries are kept in session at expense and inconvenience longer than necessary, with a view to their trial. The evils are undoubtedly great, and in the opinion of the senate, imperiously require a remedy. The bill under consideration applies the remedy without the slightest danger to the citizen. In all capital cases, where excitement would be likely to result from the crime, the power of removal is left by the bill with the accused. This perhaps is wrong, and it might, possibly, with more safety to the community, be left with a court of justice—but still the senate is unwilling, in cases affecting the life of an individual, to disturb the principle. So too, in cases of libel, where passion becomes excited, the power of removal is reserved. In minor cases even, it is not taken away—in them a removal may be had in the discretion of the court. And surely the judges to whom higher and more solemn duties are confided, may be trusted