TARBOROUGH FREE PRESS.

Whole No. 530. Tarborough, (Edgecombe County, N. C.) Friday, November 28, 1834. Vol. X—No. 62.

The "Tarborough Free Press,"
BY GEORGE HOWARD,

Is published weekly, at *Two Dollars and Fifty Cents* per year, if paid in advance—or, *Three Dollars*, at the expiration of the subscription year. For any period less than a year, *Twenty-five Cents* per month. Subscribers are at liberty to discontinue at any time, on giving notice thereof and paying arrears—those residing at a distance must invariably pay in advance, or give a responsible reference in this vicinity.

Advertisements, not exceeding 16 lines, will be inserted at 50 cents the first insertion, and 25 cents each continuance. Longer ones at that rate for every 16 lines. Advertisements must be marked the number of insertions required, or they will be continued until otherwise ordered, and charged accordingly.

Letters addressed to the Editor must be post paid, or they may not be attended to.

DOMESTIC.

MESSAGE.

To the General Assembly of the State of North Carolina:

GENTLEMEN: The gratification which it always affords me to witness the assemblage of the immediate representatives of the people, is greatly heightened, upon the present occasion, by the peculiar circumstances under which you have convened. Although we have neither, as an independent State, nor as one of the constituent parts of a great nation, attained the highest degree of prosperity and happiness within our reach, we have reason to believe that we have made important improvements in the science of Government, and have done much to perpetuate and diffuse the lights of civil and religious freedom at home and abroad. Such considerations must excite in every patriotic bosom not merely emotions of pleasure, but the most heartfelt gratitude to the Great Author of these distinguished blessings. Deeply sensible as we may be, however, of the superior advantages which we enjoy in comparison with any other people, either ancient or modern, we should recollect that nations, as individuals, must continually press forward in the contest for human excellence, if they would preserve their relative superiority.

No truth in political science is more clearly established, than that the public liberty can only be preserved by the distribution, among various departments, of the powers of Government. The great excellence of our Constitution consists in this distribution, and however much we may regret to witness a conflict for authority between these departments, there is no difficulty in determining that while the checks and balances are preserved, though public harmony may be disturbed for a time, the public liberty is safe. It is only when too much power is grasped by either, that the whole system of Government is endangered.

That your attention should be mainly directed to objects of State legislation, cannot be doubted. This does not preclude, nevertheless, a proper degree of vigilance with respect to the proceedings of the General Government, since upon the purity of its administration may depend not only public prosperity, but individual security and freedom. Pursuing the course indicated by these suggestions, I will proceed at once to the most important subjects which are, in my opinion, proper for your consideration. Of these the proposition to amend the Constitution of this State, first introduced into the General Assembly in 1787, and which has continued to command the public attention for nearly half a century, is regarded as most prominent. Upon a subject of such universal interest, and involving so many important considerations, you have a right to expect an unreserved communication of the opinions of the Executive Department. The circumstances which, in my estimation, rendered such a course improper at the commencement of the last session, do not now exist, and I avail myself of the first fair opportunity, which has been offered to me, to present my views of this perplexing, but interesting question.

The Constitution itself is silent on the subject of amendment, and this circumstance has given rise to great diversity of opinion as to the mode in which it may be effected. It has been contended, on the one hand, that if the Legislature is not alone clothed with this highest attribute of sovereignty, it has the exclusive right to direct the time when, the agents by whom, and the manner in which it shall be exercised; and that the acts of a Convention assembled without legislative sanction, would be unauthorised and void. On the other hand, it is insisted that no change of the fundamental law can be legitimate, unless it proceed from the people in their primary assemblies; and that all action upon the subject by the Legislature is an usurpation of power. I apprehend that neither position is true to the extent which is sometimes contended. That all political power is vested in and derived from the people only, is a leading principle in our Bill of Rights, and it would seem to be a necessary deduction from it, that they have, in the absence of all stipulation upon the subject, the right to determine in what manner it shall be exercised. Without entering into any formal reasoning upon the subject, however, or even looking abroad for authority, it is believed that the argument may be safely rested upon the precedents which have come down to us, clothed with the sanction of the framers of the Constitution, and of the two successive Conventions to which it has been submitted for amendment. It will not be contended that the Constitution cannot be amended, or entirely abrogated, and a new system adopted, by the same power, exercised in the same manner, which gave existence to the former. The incipient measures towards the adoption of the present Constitution, proceeded neither from the Legislature nor from the people in their primary assemblies; nor was it framed by delegates chosen for that purpose only.

On the 9th of August, 1776, the Council of Safety, which consisted of two members from each of the six judicial districts in the State, appointed by the Provincial Congress which assembled at Halifax in April preceding, adopted the following resolution:

"The representatives of the United States of America, in general Congress assembled, at Philadelphia, the 4th day of July, 1776, having determined that the thirteen United Colonies are free and independent States, and in consequence thereof having published a Declaration of Independence:

"*Resolved*, That it be recommended to the good people of this *new independent State* to pay the greatest attention to the election, to be held on the 15th of October next, of delegates to represent them in Congress, and to have particularly in view the important consideration, that it will be the business of the delegates then chosen, not only to make laws for the good government of, but also to form a Constitution for this State; that this last, as it is the corner stone of all law, so it ought to be fixed and permanent; and that according as it is ill or well ordered, it must tend in the first degree to promote the happiness or misery of the State."

The delegates elected to the Provincial Congress, in pursuance of this recommendation, convened in Halifax in the month of December following, and in addition to the discharge of the ordinary legislative, judicial and executive duties, adopted the present system of fundamental law. The Constitution thus formed has twice undergone amendment. In 1788, the Convention which assembled to consider the Federal Constitution, in compliance with "a recommendation of the General Assembly *to that* Convention," to consider the propriety of extending to the town of Fayetteville the right of representation in the General Assembly, passed an ordinance for that purpose. The Convention which, in the month of November of the following year, adopted the Federal Constitution, acting under a similar recommendation from the General Assembly, passed the ordinance to establish the place for the future seat of government. Neither the Constitution itself, nor either of these amendments was at any time submitted to the people for ratification; and it is remarkable that the resolution of 1787 *did not recommend to the people* to elect members to a Convention with power to consider the propriety of allowing a town member to Fayetteville, but confided the discretion immediately to the Convention called to consider the Federal Constitution. Without pursuing this discussion further, the conclusion may be fairly drawn, that a legislative recommendation to the people to select a Convention, clothed with authority to exercise the highest duties of legislation, is in strict accordance with first principles, and in precise conformity to all the precedents afforded by our history. It is not considered necessary to inquire into the validity of other modes which have been suggested as proper to effect this object; because the one proposed is entirely adequate to the end in view, is the only one that comes within the legitimate range of legislative authority, and has twice received the unanimous sanction of the founders of the Government. Nor is any discussion of the principle so frequently controverted, that a Convention may be invested with limited powers, believed to be called for. If the precedents before us are authorities, the affirmative is conclusively established; for neither the Convention of 1788, nor that of '89 had any other power in connexion with the State Constitution, than to allow Fayetteville a town member, and to establish the seat of government. The objection, indeed, seems to be altogether of recent origin, and not to have been even suggested in the frequent discussions which the subject underwent at that period.

Satisfied myself that you have authority to direct that a Convention shall be convened, to consider the Constitution; to prescribe the specific powers with which it shall be invested, and that any act it may perform, which shall transcend these limitations of power, will be void, I beg leave to state briefly some of the reasons which induce me to recommend that a Convention with limited powers shall be called.

A particular examination of the various changes which have been proposed to our fundamental law, would not comport with the character of this communication. The great object to be attained is a radical change in the basis of representation. It is obvious that the statesmen of 1787 contemplated no other innovation upon the Constitution than to substitute either population or taxation, or both combined, as a basis, instead of the arbitrary principle of county representation, without regard either to numbers, or wealth, or even territorial extent. It is believed that no material innovation is generally desired at the present day, on any other department of the government, than the legislative, unless the proposed change in the mode of supplying vacances in the executive department shall be so considered.

This system of representation had its origin no doubt in the universal disposition which existed among the colonists, at the organization of their political society, to assimilate our institutions as nearly as practicable to those of the mother country. And although it was entirely abolished or greatly modified by all the old States, with the exception of Maryland and North Carolina, and has not been adopted by any one of the new States, it is believed to have prevailed universally in the colonial forms of Government. It is not surprising that a principle of such high antiquity in the parent State, and which had received the general sanction of the colonies, should have found favor with the Congress which framed our Constitution. But that it should have been acquiesced in for nearly half a century after it had been rejected by most of the other States, and had failed to command the concurrence of the united wisdom of all of them in the Convention that framed the Federal Constitution, exhibits striking evidence of the patience and patriotic forbearance of that portion of our citizens who regarded themselves as aggrieved by its inequality.

From an early period in our history, however, this basis of representaton has been the source of constant disquietude. An act of Assembly, passed in 1746, when there were but fourteen counties in the province, recites that the inhabitants of several of the northern counties claim the privilege of being represented in the Assembly by five members, "while those of the *more southern and western counties*, who are more *numerous* and contribute much more to the *general tax* of the province, are represened only by two members; from which inequality great mischiefs and disorders have arisen, and the best schemes for the good and welfare of the province have been utterly defeated." The proposition to change the system in 1787 and the following year, was introduced and sustained by some of the most distinguished statesmen of the era, who were also conspicuous members of the Congress which framed the Constitution itself. It was adopted in both instances by one branch of the Legislature, and would most probably have succeeded in the other, but for the nearly unanimous opposition of the members from the counties which now constitute the State of Tennessee. It was then, as at present, the source of contention between the populous and sparsely settled counties, and hence the change was universally desired by the maritime portion of the State. The cession of our western territory to the General government, obviated, to some extent, the inequality previously complained of, and restored temporary harmony to our public counils. It is unnecessary to illustrate the practical operation of this system by particular examples. It is certain that it subjects the majority to the rule of the minority, and confers on those who pay comparatively but a small proportion of the public expense, the power to control the entire resources of the country. If the wisdom, patriotism, and spirit of compromise requisite to the permanent and satisfactory adjustment of this controversy shall be found united in the present General Assembly, you will achieve a triumph of inestimable importance, and entitle yourselves to the lasting gratitude of posterity.

It is perfectly certain, that until this source of contention shall be withdrawn, the baneful spirit which distracted our colonial assemblies, will continue to thwart all efforts towards wise and liberal legislation, and defeat "the best schemes for the good and welfare of the State."

As next in importance to this fundamental question, the relations which exist beween this State and the General Government, will claim your consideration. This subject, it will be recollected, was referred to in the last annual message, and the disposition intimated to discuss it at a future period. The opinion then expressed, that the growth of this State in power and wealth, retarded as it has been by certain natural disadvantages, has also been greatly impeded by the effects resulting from various acts of federal legislation, remain unchanged. A simple statement of facts will render it apparent that we sustained great losses in the partial adjustment of the debts incurred by the confederacy and the States in the revolutionary war;—that the fiscal system rendered necessary by the assumption of the debts of the States, on the part of the Federal Government, was deeply prejudicial to our interests;—and that now, when the national debt is extinguished, we have a clear right to such indemnity as may be afforded, by an equitable distribution by Congress of the fund created, but no longer needed for that purpose.

It is not proposed to examine the details connected with our claims for expenditures during the war of the Revolution. A mere reference to the rule by which the adjustment was made, is all that is necessary to a correct view of the subject. By the articles of confederation, it was stipulated that all expenses incident to the common defence and general welfare should be paid out of a common treasury, to be supplied "by the several States in proportion to the value of all lands within each State granted to or surveyed for any person, *as such land and the buildings and improvements thereon* should be estimated," in the manner that might thereafter be directed. The act of Congress of 1790 changed this rule, and provided that the expences incurred by the confederation in the common defence and general welfare, should be paid by the States, in proportion to the federal population, which should be ascertained to belong to each by an enumeration, which was then directed to be taken. In the House of Representatives of the Congress which adopted this apportionment, this State and South Carolina, under the rule of representation established by the Constitution, had five members each, *or one thirteenth* of the whole number of which that body was composed. By this substituted rule of apportionment, however, North Carolina became chargeable with *one-tenth*, and South Carolina with *one-seventeenth* of the public debt. North Carolina was made a debtor State to the amount of about half a million of dollars, while South Carolina received from the Treasury of the United States more than twice that sum. It is apparent that if the original principle recognized by the articles of confederation had been adhered to, that the result would have been widely different, and that the one which was observed operated most unequally in regard to our interests. Some attention to the details of the settlement, has produced upon me the impression that we were scarcely more unfortunate in the selection of the rule, than in its application to the various questions touching our expenditures determined by the commissioners.

It is proper to remark that comparison has been instituted between this State and South Carolina, not because the disproportion was greater than in one or two other instances that might have been referred to, but principally for the reason that her proximity to us, and similarity of situation, rendered this the most apt illustration.

The same act of Congress which prescribed the proportion in which the debt created during the revolution should be paid by the several States, laid the foundation of the revenue system which has prevailed until the present period. It provided likewise for the assumption by the General Government of debts which had been contracted by the individual States, to the amount of twenty millions and a half of dollars; and for the gradual redemption of the whole debt, foreign and domestic, the proceeds of the public lands, which had been ceded by the several States, and an impost of seven and a half per cent. *ad valorem*, were constituted a sinking fund. It is evident that at the period of this enactment, the public domain was looked to as the principal source from which this fund was to be derived, and that it was not intended to have recourse to any species of taxation longer than might be necessary to render the proceeds of the former available.

No prejudice is entertained against a revenue arising from imposts on foreign merchandize. On the contrary, it is regarded as the most convenient mode of taxation yet devised: If experience has shown that it may readily be applied to favor the industry of one section of the Union at the expense of another, and that it affords an opportunity to the federal legislature to require from our citizens larger contributions than are necessary to an economical administration of the government, it is an argument against the abuse, and not the legitimate exercise of a necessary power. A tariff of duties on imported goods was at an early period recognized by various acts of the Legislature of this State as a favorite mode of taxation.—It is well known that one of the strongest arguments pressed upon the General Assembly of 1785, by our delegation in Congress, to induce the cession of our western territory to the confederation, was that it was necessary to the introduction of this system; and that on no other condition would some of the eastern States, and particularly Rhode Island, submit to a *five per cent. impost*. There is no fact connected with our history under the confederation, more clearly established than the early and continued anxiety of the State of North Carolina to provide an adequate revenue for the government by a tax upon importations. The impression