

CHANGE OF THE CONSTITUTION.

The following Amendments to the Constitution of this State were offered by Mr. Meares, in the Senate, on the 7th instant, as a substitute for the Amendments embraced in the bill to provide for ascertaining the sense of the people relative to amending the Constitution:

ARTICLE 1.

The Legislative authority of North Carolina shall be vested in two distinct branches, both dependent upon the people, to wit: a SENATE and HOUSE OF COMMONS.

2. The Senate shall be composed of members chosen by ballot every two years, in the manner hereinafter directed.

3. The House of Commons shall be composed of members chosen by ballot, every two years, in manner hereinafter directed.

4. The Senate and House of Commons, assembled for the purpose of legislation, shall be called the General Assembly.

5. Each member of the Senate shall be a free white man, a citizen of the United States; shall have attained, at the time of his election, the age of twenty-five years; and shall have usually resided in the district in which he is chosen, for one year immediately preceding his election; and for the same time shall have possessed, and continue to possess, in the district which he represents, not less than three hundred acres of land in fee, or other real estate in fee, of the value of six hundred dollars.

6. Each member of the House of Commons shall be a free white man, a citizen of the United States; shall have attained the age of twenty-one years; and shall have usually resided in the county in which he is chosen, for one year immediately preceding his election; and for six months shall have possessed, and continue to possess, in the county which he represents, not less than one hundred acres of land in fee, or for the term of his own life, or other real estate, by the same tenure, of the value of two hundred dollars.

7. All free white men, of the age of twenty-one years, who have been inhabitants of any one county within the State twelve months immediately preceding the day of any election, and possessed of a freehold, within the same county, of fifty acres of land, for six months next before, and at the day of election, shall be entitled to vote for a member of the Senate.

8. All free white men, of the age of twenty-one years, who have been inhabitants of any one county within the State twelve months immediately preceding the day of any election, and shall have paid public taxes, shall be entitled to vote for members of the House of Commons, for the county in which he resides.

9. The Senate and House of Commons, when met, shall each have power to choose a speaker and other their officers; be judges of the qualifications and elections of their members; sit upon their own adjournments from day to day; and prepare bills to be passed into laws. The two Houses shall direct writs of election for supplying intermedial vacancies.

10. All bills shall be read three times in each House, before they pass into laws, and be signed by the speakers of both Houses.

11. Every person who shall be chosen a member of the Senate or House of Commons, or be appointed to any office or place of trust, before taking his seat, or entering upon the execution of his office, shall take an oath to the State; and all officers shall take an oath of office.

12. The General Assembly shall, by joint ballot of both Houses, appoint Judges of the Supreme and Superior Courts of Law and Equity, and an Attorney General, who shall be commissioned by the Governor, and hold their offices during good behaviour.

13. The General Assembly shall not pass any law impairing the rights hitherto exercised by masters over their slaves as property: no tax shall be imposed on slaves under the age of twelve, or over the age of fifty years; none but a capitation tax shall be imposed on them, and a taxation per capita shall be equal on all classes of persons: Provided, that no such tax shall be laid on white females, or upon males under the age of twenty-one, or over the age of forty-five years.

14. The Executive authority of this State shall be vested in a Governor, who shall be elected every two years, by the free white men of the State, who are qualified to vote for members of the House of Commons. He shall be at least thirty years of age, a citizen of the United States; shall have resided in the State for five years immediately preceding his election, and shall own and possess, in the State, a freehold of at least two thousand dollars in value; and no person shall be elected Governor for more than two terms in succession.

15. There shall be a seal of this State, which shall be kept by the Governor, and used by him as occasion may require, and shall be called the Great Seal of the State of North Carolina, and be affixed to all grants and commissions.

16. The Governor for the time being shall be captain general and commander in chief of the militia; and, in the recess of the General Assembly, shall have power to embody the militia for the public safety.

17. The Governor for the time being shall have power to draw for, and apply such sums of money as shall be voted by the General Assembly for the contingencies of Government, and be accountable to them for the same. He shall have the power of granting pardons and reprieves, except where the prosecution shall be carried on by the General Assembly, or the law shall otherwise direct; in which case he may, in the recess, grant a reprieve until the next sitting of the General Assembly, and may exercise all the other executive powers of Government, limited and restricted as by this Constitution is mentioned, and according to the laws of the State. And on his death, inability or absence from the State, the Speaker of the Senate for the time being, and in case there be no Speaker of the Senate at such time, then the person who was last Speaker of the Senate, and in case of his death, inability or absence from the State, the Speaker of the House of Commons, and in case there be no Speaker of the House of Commons at such time, then the person who was last Speaker of the House of Commons, shall exercise the executive power, after such death, or during such absence or inability of the Governor, or Speaker, or person as aforesaid, or until a new election is made by the people. And the General Assembly shall provide by law for the manner of holding the election of Governor by the people; and they shall, by joint ballot, choose a Governor, to hold his office until the first election of the same by the people.

18. In every case where any officer, the right of whose appointment is vested in the General Assembly, or in the Governor and Senate, whose office shall, by death, resignation, removal, or other means, be vacant during the recess of the General Assembly, the Governor shall have power to fill such vacancy by granting a temporary commission, which shall expire at the end of the next session of the General Assembly.

19. The Governor, Judges of the Supreme and Superior Courts of Law and Equity, and Attorney General, shall have adequate salaries, which shall not be diminished during their continuance in office: Provided, nevertheless, that the Governor may remove a Judge or the Attorney General upon the address of two thirds of each house of the General Assembly, which address shall contain the causes for which the removal is demanded.

20. The General Assembly shall, by joint ballot of both Houses, every two years elect a Treasurer, Secretary of State, and Comptroller of public accounts.

21. The Governor and other officers offending against the State by violating any part of this Constitution, for mal-administration or corruption, may be prosecuted on the impeachment of the House of Commons.

22. No persons who have heretofore or hereafter may be the receivers of public moneys, shall have a seat in either House of the

General Assembly, or be eligible to any office in this State, until such person shall have fully accounted for, or paid into the Treasury all sums for which they may be answerable and liable.

23. No Treasurer shall have a seat either in the Senate or House of Commons, during his continuance in that office, or before he shall have finally settled his accounts with the public for all the moneys which may be in his hands at the expiration of his office, being due to the State, and hath paid the same into the hands of the succeeding Treasurer.

24. No officer, either civil, military or naval, in the service of the United States, or any other State or country, shall be entitled to a seat in the Senate or House of Commons.

25. No Judge of the Supreme or Superior Courts of Law and Equity of this State, shall be entitled to a seat in the Senate or House of Commons.

26. No Secretary of State, Comptroller, Attorney General or clerk of any Court of Record in this State, shall be entitled to a seat in the Senate or House of Commons.

27. No clergyman or preacher of the gospel of any denomination shall be capable of being a member of either the Senate or House of Commons, while he continues in the exercise of the pastoral functions.

28. Justices of the Peace, within their respective counties in this State, shall be appointed by the Governor, by and with the advice and consent of the Senate; and the said justices, when so appointed, shall be commissioned by the Governor, and shall hold their offices during good behaviour; but they may be removed from office by the General Assembly for corruption, misdemeanor, inability or absence from the State.

29. There shall be no establishment of any one religious church or denomination in this State, in preference to any other; neither shall any person, on any pretence whatsoever, be compelled to attend any place of worship contrary to his own faith or judgment, nor be obliged to pay for the purchase of any glebe, or the building any house of worship, or for the maintenance of any minister or ministry, contrary to what he believes right or has voluntarily, and personally engaged to perform; but all persons shall be at liberty to exercise their own mode of worship: Provided, that nothing herein contained shall be construed to exempt preachers of treasonable or seditious discourses from legal trial and punishment.

30. No person in the State shall hold more than one lucrative office at any one time: Provided, that no appointment in the militia or to the office of a justice of the peace shall be considered as a lucrative office.

31. That all commissions and grants shall run in the name of the State of North Carolina, and bear test and be signed by the Governor: All writs shall run in the same manner, and bear test, and be signed by the clerks of the respective Courts. Indictments shall conclude against the peace and dignity of the State.

32. There shall be a Sheriff, Coroner or Coroners and Constables, in each county within this State.

33. That the person of a debtor, where there is not a strong presumption of fraud, shall not be confined in prison after delivering up, bona fide, all his estate, real and personal, for the use of his creditors, in such manner as shall be hereafter regulated by law. All prisoners shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident, or the presumption great.

34. A school or schools shall be established by the Legislature for the convenient instruction of youth, with such salaries to the masters, paid by the public, as may enable them to instruct, at low prices; and all useful learning shall be duly encouraged and promoted in one or more universities.

35. The Legislature of this State shall regulate entails in such a manner, as to prevent perpetuities.

36. The Declaration of Rights is hereby declared to be a part of the Constitution of this State, and ought never to be violated on any pretence whatever.

37. Any member of either House of the General Assembly shall have liberty to dissent from, and protest against, any act or resolution which he may think injurious to the public, or any individual, and have the reasons of his dissent entered on the journals.

38. Neither House of the General Assembly shall proceed upon public business, unless a majority of all the members of such House are actually present: And, upon a motion made and seconded, the yeas and nays upon any question shall be taken and entered on the journals: And the journals of the proceedings of both Houses of the General Assembly shall be printed and made public, immediately after their adjournment.

39. The General Assembly of this State shall convene at the seat of Government once in every two years; but may be convened oftener by the Governor of the State, if, in his opinion, the public interest shall require it.

40. The Senate shall consist of fifty members, to be chosen biennially, of whom twenty-seven shall be elected by and for that part of the State which is comprised within the following counties, to wit: The first class, Brunswick, Beaufort, Bertie, Craven, Carteret, Currituck, Camden, Chowan, Columbus, Duplin, Edgecombe, Franklin, Gates, Granville, Greene, Halifax, Hertford, Hyde, Jones, Johnston, Lenoir, Martin, New Hanover, Nash, Northampton, Onslow, Pasquotank, Pitt, Perquimans, Bladen, Sampson, Tyrrell, Washington, Wake, Warren, Wayne; and twenty-three of whom shall be elected by that part of the State comprised within the following counties, to wit: The second class, Anson, Ashe, Buncombe, Burke, Yancey, Caswell, Chatham, Cumberland, Cabarrus, Davidson, Guilford, Haywood, Iredell, Lincoln, Moore, Macon, Montgomery, Mecklenburg, Orange, Person, Randolph, Rowan, Rockingham, Richmond, Rutherford, Surry, Stokes, Wilkes, Robeson. And for the election of whom, the State shall be divided into districts, by the next General Assembly, according to the following rules, to wit: First, each county in the first class, which pays annually into the Public Treasury of the State, one twenty-seventh part or more of the aggregate taxes paid by all the 26 counties therein named, shall form one district. And each county in the 2d class which pays annually into the Treasury of the State one twenty-third part or more of the aggregate taxes paid by all the 29 counties therein named, shall form one district. Second, wherever there shall be a county deficient in the ratio of taxation, lying contiguous to one or more counties of the same class, which pay an excess or excesses of such ratio, then such excess or excesses shall be computed as belonging to a contiguous county which is deficient as aforesaid; and if, by this acquisition, such county have the requisite ratio, it shall also constitute a district. 3. Wherever there are two or more counties, each paying a ratio that is deficient, contiguous to another county or counties of the same class, paying an excess of ratio, the county which has the least deficiency shall be first entitled to have such excess applied to make up its deficiency. 4. Wherever there shall be two or more contiguous counties belonging to the same class, which together pay the required ratio of taxes, they may together constitute a district. 5. Wherever there shall be two or more counties of the same class contiguous to each other, which together do not pay the required ratio in taxes, the excess of one or more contiguous counties in the same class may be computed to belong to the counties which are deficient, so as to make up their deficiency. 6. In computing the public taxes aforesaid, the Legislature shall cause the annual taxes assessed for the State Treasury, upon each county, to be ascertained by an average for ten years preceding the allotment of districts. It shall be the duty of the Legislature to re-appoint the Senate among the counties composing the classes of 26 and 29 counties above named, again, at their first session after the year 1841, and every ten years thereafter: Provided, however, that it shall be done upon the principles, and according to the rules above stated, and so that the

number of senators from the two great divisions or classes aforesaid shall neither be increased nor diminished by such apportionment.

41. The House of Commons shall consist of not less than one hundred, nor more than one hundred and twenty members, to be elected biennially, as follows: The towns of Fayetteville, Wilmington and Newbern shall elect one member each; and the others shall be apportioned by the Legislature at their next session, and again at their first session after 1841, and every ten years thereafter, among the counties as near as may be, according to their federal population; but in estimating the population of Craven, Cumberland and New Hanover, the population of the towns respectively located therein, which are allowed to send a representative, shall not be excluded until after the number of members from said counties will, by the ratio be more than two: Provided, however, that every county heretofore established shall always be entitled to one member of this House: And provided further, that the territory included in the county of Macon, and now occupied by the Cherokee Indians, when formed into a distinct county, shall be entitled to one member: And provided further, that where there are two or more counties in the State which have residuums over and above the ratio then fixed by law, if said residuums, when added together, shall amount to such ratio, in that case one representative shall be added to that county having the largest residuum. The General Assembly shall combine these residuums by successively adding the largest residuum to the smallest, or to so much or so many of them as will make the required ratio for one additional representative to the county having the former; and then, by adding the next largest residuum to the smallest remaining residuum, to make the ratio for an additional representative to the county having the former; and so on until the residuums will no longer make a ratio by being combined, or until the whole number of representatives to be elected is made up. The Legislature shall fix the number of which this House shall consist between one hundred and one hundred and twenty; and when it is fixed, the same shall not be altered until the next succeeding apportionment. The enumeration of the population of this State may be made in such manner as the Legislature shall direct; but in case they do not prescribe a different mode, the census of the State last taken under the authority of the United States preceding the allotment, shall be the enumeration by which representation shall be apportioned. The census which was last taken by the Government of the United States shall be the enumeration by which the next General Assembly shall make the apportionment of representatives.

42. The General Assembly shall regulate by law the manner of electing the general and field officers of the militia; but if at any time the public safety or interest, in their opinion, requires them to do so, they may elect such officers by joint ballot, or otherwise: Provided, that this article shall not in any manner affect officers whose commissions issued upon elections heretofore made.

43. All free white men possessed of a freehold in any town in this State, having a right of representation under the Constitution, and also all free white men who have been inhabitants of any such town twelve months next before and at the day of election, and shall have paid public taxes, shall be entitled to vote for a member to represent such town in the House of Commons: Provided always, that this section shall not entitle any inhabitant of such town to vote for members of the House of Commons for the county in which he may reside, nor any freeholder in such county, who resides without or beyond the limits of such town, to vote for a member for such town.

44. The House of Commons shall have the sole power of impeachment.

45. All impeachments shall be tried by the Senate; and when sitting for that purpose, the Senators shall be on oath or affirmation. No person shall be convicted without the concurrence of two thirds of the members present.

46. Upon conviction of any officer liable to impeachment, judgment in such cases shall not extend further than removal from office and disqualification to hold any office of honor, trust or profit under this State; and the party convicted may moreover be liable and subject to indictment, trial and punishment according to law.

47. All officers now filling any office or appointment shall continue in the exercise of the rights and duties of their respective offices or appointments for the terms now by law authorised, unless by this Constitution it is otherwise directed; and all laws in force at the time of making the several amendments to the Constitution, and which are not inconsistent therewith, all rights, actions, prosecutions, claims and contracts of any description, shall continue as if this Constitution had not been made.

48. The city of Raleigh shall be the seat of Government of this State, the unalterable place of holding the future General Assemblies of the same, and the place of residence of the chief executive officers of the State.

49. No part of this Constitution shall be altered, unless a bill for that purpose, specifying the alterations intended to be made, shall have been read three times in the House of Commons and three times in the Senate, on three several days in each House, and agreed to by two thirds of each House respectively; and when any such bill shall be passed in manner aforesaid, the same shall be published at least three months previous to the next ensuing election for members of the General Assembly; and if such alterations, or any of them, so proposed, shall be agreed to during the first session thereafter, by two thirds of each House of the General Assembly, after the same shall have been read three times, on three separate days, and subsequently ratified by a vote of a majority of the people, then, and not before, the same shall become a part of this Constitution.

The following Report was made a few days since in the Senate, on a resolution referred to the Judiciary committee, on motion of Mr. Morris, of Anson:

The Judiciary Committee, to whom was referred the resolution instructing them to enquire into the expediency of regulating the practice of courts of justice, as to the manner of propounding to jurors, in trials for capital felonies, the question, "Whether they had formed and expressed an opinion as to the guilt or innocence of the prisoner," REPORT:

That a diversity of practice, relative to this matter, prevails among the Judges on the Circuit Court Bench; and that, in consequence of the latitude of construction sometimes given to the disqualification of jurors, serious inconveniences often arise in the administration of justice. That, in a country like ours, where there is a continual intercourse among the citizens of each county, it rarely occurs that a capital felony is perpetrated, without its becoming a general topic of conversation in the county where it occurred. That, consequently, exaggerated and unfounded reports are circulated regarding the affair, and the general habit of our citizens, in expressing opinions on all subjects about which they converse, induces them to express crude opinions upon false statements; which, under the present mode of administering the law, disqualifies them as jurors, when, in truth, there is not such a bias on the mind as would influence their verdict.

Your committee, therefore, recommend the passage of the accompanying bill; which they believe will, to some extent, remedy the evil.

As connected with this subject, your committee have been led to the consideration of the extent of the right of peremptory Challenge, as now allowed in capital felonies. This right of peremptory challenge, like most of our common law principles, originated in a Government based upon principles very different from our own. In England, the influence and patronage of the crown must be most carefully guarded against. The crown is in all cases the prosecutor. Wherever its prejudices or interests are enlisted in a prosecution, the utmost care is necessary to guard the subject from its influence and patronage. Therefore, the right peremptorily to challenge 35 jurors is given to the accused. In North Carolina, the situation of affairs is utterly different. The population in most of the counties is sparse. The State has no influence on prosecutions; nor is there any public functionary who, from his patronage, can bias the verdict of a jury. On the contrary, whatever influence may be brought to bear on any particular case, is exercised by the accused or his friends; and this, with the right peremptorily to challenge thirty-five jurors, in small counties particularly, often enables the accused to pack his jury, and thus elude justice.

Your committee have, therefore, added a clause to the annexed bill, reducing the right of peremptory challenge from 35 to 24. Respectfully submitted, JOSEPH B. SKINNER, Chairman.

A Mr. Dobson and Mr. Rice, of each of gentlemen from Conestogah, Conestogah, Pa. left their business one day last week, for the "west." On being arrested, the first one declared a warrant was issued for their apprehension, upon the charge of being peremptorily challenged for worse, on the morning previous. The constable being a man of gallantry, released the two immediately.

A Mr. Morris, of Anson, has been arrested for worse, on the morning previous. The constable being a man of gallantry, released the two immediately.

A second edition of the file and copy of the report of the Judiciary Committee, with additions and improvements, from the press of Lilly, Wait and Co.