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CONVENTION DEBATES.

FROM THE RALEIGH REGISTER.

The 27th section being read,

Mr. *Harrington* moved to strike out this section also.

Mr. *Dodge* supported the motion. He had always been taught to believe that ours was a country where religious intolerance would be countenanced. Why, then, suffer a section of this kind to remain which shuts out from office a respectable portion of our citizens, the Roman catholics and Jews? It conflicts indeed with the 30th section of this instrument, which provides "that there shall be no preference given to one religious society over another." At the time when our present constitution was formed, religious prejudices ran high, and the Episcopal church seemed to apprehend danger from the extension of the Catholic Religion; but why should we perpetuate notions for which there is no foundation? He tho't the people were sufficiently able to judge of the qualities of their representatives, without such a provision as is contained in this section. Our brethren to the Eastward, who we are apt to consider as sufficiently strict in their religious notions, have no such test as this in any of their constitutions, and he could see no good reason why we should retain it.

Mr. *Yancey* observed, that if this section had received such a construction as that which the gentleman from Davidson had put upon it, there would be good reason for expunging it; but he could assure him it had received a quite different construction. The words "Protestant Religion" had been considered as synonymous with the words "Christian Religion," and being so considered, it had none of the exclusive effects which he apprehended. If we were making a new Constitution, Mr. Y. added, a different languade might be used; but as no inconvenience had been experienced from the section as it stands, he hoped that the committee would consent to keep it in its present form.

Mr. *Dodge* said, whatever construction might be given to this section here, there can be no doubt, that every stranger who reads it, will conclude that Roman Catholics and Jews are excluded from office in our government.

The motion to strike out was negatived.

The 28th section being read,

Mr. *Brevard* observed, that it had always been conceded, that the present mode of appointing Justices of the Peace was not a correct one. Objections had also been made to the course proposed by the committee, and he must confess it did not meet with his approbation, though there might, perhaps, be some difficulty in pointing out a better. A gentleman had suggested a plan, which he would mention to the committee, more with a view of eliciting the opinions of others on the subject, than from a hope that his suggestion would be adopted. His plan was, that persons to be appointed Justices of the Peace should be recommended by three-fourths of the Captain's company in which they resided, and that they should hold their office for three years only. But objections may perhaps, be raised to any mode that can be offered. In the section recommended by the committee, the Governor is to appoint Justices by and with the advice and consent of the Senate—men who live in remote parts of the State, with whom neither the Governor, nor the Senate can be acquainted.—There was more probability that candidates for this office would be known by members of the Legislature at large, by whom they are now appointed. The practice in his county had been such, that the Captain's companies might be said to appoint the Magistrates; as they recommended them to the Legislature, who confirmed the recommendation, and the Governor commissioned them. To try the question, he moved to strike out the 28th section.

Mr. *Yancey* hoped this section would not be struck out; for if it were, the committee would certainly never agree to the course proposed. The office of a Justice of the Peace is one of great importance, and he knew no description of men in the community who deserved better of their country than Magistrates who faithfully perform their duty. To appoint these officers in the way proposed, would be to give the appointment in fact to every Captain's company; for if any set of men were pointed out to recommend persons to office, the Governor would, without enquiry, commission them as a matter of course. He would rather the choice should be given to the people at large, or that the present provision should stand, to adopting the one mentioned by the genman from Lincoln. Some gentlemen have thought it would be well that the County Courts should recommend, but all these courses are liable to abuse; whereas, if the power be given to the Governor, he will make inquiries from such sources as he may judge proper into the standing and character of candidates, and the responsibility will lie on him. We have in favour of the mode proposed by the committee, not only the practice of the United States, but of several of the States, and no objection has been made to it.

Mr. *Brevard* said, he had no particular fondness for the proposition which he had offered to the committee; but he did not think the chairman of the committee had brought forward any good objection to it. By the section as it stands, the Governor is to appoint, with the consent of the Senate, though neither he nor the Senate have any knowledge of the candidate. He thought that a man's neighbors were best acquainted with his qualifications for office, and this was the course proposed by the amendment which he proposed.

The question on striking out was negatived.

The 29th section being read,

Mr. *J. A. Cameron* moved a substitute placing the appointment of field officers in the militia, as well as general officers, in the Governor.

Mr. *Love* hoped that this amendment would not be agreed to. The mass of the people were better qualified to appoint their field officers than the Governor. In the county from whence he came, the people were in favor of appointing their own officers, and he thought it best they should do so.

The amendment was negatived.

All the succeeding sections till the committee came to the 40th, were passed without objection.

Mr. *Brittain* moved to strike out a part of that section, which left a discretionary power in the Legistature to call the General Assembly oftener than biennially, if they thought it necessary. He wished to place the discretionary power in the hands of the Governor only.

Mr. *Yancey* hoped this part of the section would be retained, as he thought the Legislature ought to have the power of meeting more frequently, if they thought the public interest required it. But if any extraordinary occasion should arise, when the Legislature is not in session, then the Governor will have the power to make the call. He thought this power might be very safely left with the Legislature. To refuse it, would be imputing to the members of that body, motives which they did not deserve. Indeed no Legislative body would venture to direct an extraordinary session without good ground for it, as they would have to answer to their constituents. There was another reason why he thought this power ought to be left with the Legislature. It might happen that the People might wish the General Assembly to meet oftener, and the Governor may be opposed to it; and in such a case, he thought the opinion of the Legislature ought to prevail, rather than that of the Governor. He was free to acknowledge that, on ordinary occasions, one session in every two years, would be sufficient. Independent of the saving of expense, there was another reason why a less frequent meeting of the Legislature ought to be preferred. Too much legislation is worse than too little. So long as annual sessions continue, private business will continue to increase, and one session will be called upon to undo what was done at a preceding session. But though he was in favor of biennial sessions, he wished the Legislature to have the power of meeting oftener if they thought the public interest required it.

Mr. *Love* was in favor of the proposed amendment. He was not for leaving it in the power of the Legislature to meet oftener than the time fixed by the Constitution. If there were any necessity for meeting oftener, there can be no doubt that the Governor will always be willing to call an extra session. But if the clause stands as it is, the Legislature might think it necessary to meet every year. The people whom he represented were in favor of biennial sessions; but he was willing that the Governor should have the power of calling the Legislature more frequently whenever he deemed it necessary.

Mr. *Phifer* was also for the amendment. He was not willing to give the Legislature the power of meeting or not. It would be offering too great a temptation to members to give them the privilege of meeting every year if they chose. He preferred that the power of directing extraordinary sessions of the Legislature should be left with the Governor only.

Mr. *Williamson* would state to the committee, some considerations which would lead him to vote for this amendment. From the little knowledge which he had of this State, he was induced to believe that its interests did not require an annual meeting of the Legislature. Soon after the formation of the State Government, when it was necessary to enact an entirely new code of laws, annual sessions were desirable and proper; but the present state of things did not require so much legislation, and it became us to conduct our Government with as much economy as possible. The State needs money for public purposes, and this money must be obtained either from an increase of taxes, or from a retrenchment of our expenses; the first would not be acceptable to the people, but the last would. We have, said he, for some time been engaged in promoting Internal Improvements in this State. To carry on and complete these, will require more funds than we have the command of at present. The sales of the Cherokee lands have been appropriated for this purpose; but this source will after a while cease. The Dividends arising from the Newbern and Cape Fear Banks, are also appropriated to this object, but these will be insufficient, and may be diverted from this object, whenever the Legislature shall so determine. By holding the sessions of the Legislature biennially, a large sum of money will be saved for public purposes. And though he did not believe that any Legislature would come here and unnecessarily legislate themselves into annual sessions, he was unwilling to confide to the Legislature a power which ought to be defined in the Constitution.

As observed by the gentleman from Haywood, the Governor of the State is authorized to call the Legislature together on extraordinary occasions. He tho't the power properly lodged with him, and that it ought not to be given to the Legislature. Indeed, such a course, he believed, would be unprecedented. He hoped, therefore, the proposed amendment would be agreed to.

Mr. *Sanders* observed, that if the question now before the committee were to determine whether we should in future have annual or biennial sessions of the Legislature, the arguments of gentlemen would be in point; but the question is merely, whether the Legislature shall have power, when necessary to meet oftener than once in two years, or whether this power shall be wholly left with the Governor. For his part, he had quite as much confidence in the Legislature as he had in the Governor, and should have greater fear that the Governor might convene the Legislature unnecessarily, than they would themselves do so. By whom, he asked, are this Legislature selected? By the people. The power is therefore, in fact, left with the people, and it is properly left there. There is a difference of opinion amongst the people, whether the sessions shall be held annually or biennially; but my word for it, said Mr. S. if a majority of the people shall decide when the question is put to them, on biennial sessions, no legislature would take upon itself the responsibility of meeting oftener, except from imperious necessity. He hoped therefore the provision would be retained.

The amendment was agreed to, and then the section, as amended, was concurred in.

Mr. *Cameron* moved to add, after the word "counties," in the 2d line of the 41st section, the words *and towns*, with a view of providing Representatives for the towns of Newbern, Wilmington and Fayetteville, and proposing, if this amendment was agreed to, to deduct a Representative from each of the counties in which these towns are situated.

This amendment was negatived in committee of the whole; but it was agreed to in the Convention afterwards, as will appear in the proceedings.

After considerable, rather irregular debate on fixing the ratio of Representatives in the Senate, the section as it stands was agreed to, as the best that could at present be formed, though not perfectly satisfactory to all the Delegates present.

The 45th section which provides for the trial of impeachment being read,

Mr. *Carson* thought that the majority of the Senate ought to be sufficient to convict an offender, instead of two-thirds, and offered an amendment to that effect. He knew that two-thirds were required in the Senate of the United States to convict; but he thought a majority was sufficient. These officers, he said, were invested with high authority and possessed great influence, and requiring two-thirds to convict, puts them almost out of the reach of the law. In all important trials in England before twelve judges, a majority convicts. He thought if men in office so conducted themselves as to be brought to trial by impeachment, he saw no necessity for so much caution about their conviction.

Mr. *Yancey* hoped the amendment would not obtain. This provision as to the number necessary to conviction was not adopted by the committee, because it was the number fixed upon in the Constitution of the United States; but if it had, the authority would have been good. He thought there was great safety in the provision, which he believed had been adopted by most of the States. He did not believe any thing was to be feared from the influence of an officer who might subject himself to impeachment; he thought it more likely that such men might suffer from popular excitement, which this provision was calculated to guard against. He hoped therefore it would be retained.

Mr. *Carson* would have no objection to a provision that should displace the officers of Government on the address of two-thirds of both branches of the Legislature; but when a Governor or a judge is to be tried by the Senate, and two thirds of the body are required to convict him, no conviction could be looked for. You might, said he, as well tell an offender, at once, to go on in his vicious courses. Responsibility is out of the question. You cannot convict him. The best council is always employed in defending such persons. Judge Chase, when he was tried, employed talents to defend him which could not be met, and it was a provision of this kind in the constitution of the United States that saved him. If a majority could have convicted him, he would have been convicted and removed from office.

Mr. *Settle* said, that on an occasion like the present, members ought to be ready to sacrifice their individual opinions on all matters of minor importance; but rather than submit to the doctrines of the gentleman from Rutherford, that officers of the government should be removable on the address of two thirds of the General Assembly, or that a bare majority of the Senate should be able to convict an impeached officer, he would be for going home as they came, and tell their constituents they could do nothing. The gentleman has said, that but for a provision like that which he moves to expunge from this Constitution, a certain Judge would have been convicted. This shews the necesity of guarding these officers against popular excitement; for since party spirit, which was then at its height, has subsided, it has been found that there was no good grounds of impeachment against him; in the Constitution that saved him from disgrace and infamy. And suppose one of our Judges, said he, should make an unpopular decision on some party question, might it not be an easy thing to get a majority of the Senate to convict him? Such a case might happen, and we ought to guard against it, and make our officers independent of popular clamour. Experience, indeed, shews us, that the more independent our Judges are in their decisions, the less popular they are in the community. It is therefore the more necessary to defend them by proper guards, of which the one now attacked was essential.

Mr. *Carson* said, he would make but a single observation in reply. The officers in question it will be recollected, cannot be put upon their trial until a majority of the House of Representatives shall say they deserve to be impeached. They are then to be brought before the Senate, and two thirds of that body must agree to their guilt, before they can be convicted. And if two thirds do not agree on this point, the offenders return upon society without any thing more than the censure which the public may pass upon them. He thought this afforded offenders too great a chance to escape, and he wished the section therefore amended.

Mr. *Mangum* said, after what had fallen from the gentlemen from Caswell and Rockingham against the proposed amendment, it might seem unnecessary to add any thing farther. But he could not give a silent vote upon it. An attempt to place the officers of our government in so perilous a situation could not be too severely reprehended. Who, asked Mr. M. are to try these men when impeached? Are they judges who will be likely to sympathize with them? No, they will be men taken from the people with all their prejudices. So that there would be no security for the person accused, but by requiring at least a concurrence of two-thirds of their judges to produce a conviction. He considered the principle contained in this amendment, as striking at the root of the independence of the Judiciary. He looked on the doctrine as abominable; and sooner than adopt it, he would lift his voice against any change in the Constitution at all.

The amendment was negatived without a division.

Mr. *Yancey* proposed an amendment (the 47th section) that all officers, now in office, shall continue, &c.; which was agreed to.

The reported Constitution being gone through, the committee rose, and reported the amendments to the Convention, which then adjourned till to-morrow.

(To be continued.)

FOR THE WESTERN CAROLINIAN.

On the amended Constitution.

The delegates, to devise measures to obtain an amendment of the constitution of the State of North Carolina, have met, and what they have done is before the public. I have no doubt but that many of the amendments proposed were dictated by sound wisdom, and are calculated to promote the interest of the State. There are certain other articles, the evidence and propriety of which, in the opinion of the writer, is, at least very doubtful. In the 12th section of the amended constitution, the permanency of the supreme court appears to be involved in the true and natural construction of that article. Let the reader advert to that section and examine for himself. Are the people of North-Carolina prepared to appreciate a supreme court so highly as to incorporate its existence with their constitution? Have the operations of the present supreme court and its mighty achievements in the acceleration of justice, &c. paved the way for a measure of this kind? It is well known that its operations is a matter of complaint; and that in some respectable counties their members of assembly have been instructed to use their influence to effect its extermination.

The 48th section guarantees that the city of Raleigh shall forever be the seat of government. This I think exceptionable. Should Raleigh be burnt to ashes, still the assembly must meet there. Should Raleigh be infected with the plague, or any other pestilential disease, yet this, for a day, cannot cease to be the place of legislation. Should Raleigh, sensible of her prerogatives, ever so much speculate on the legislature, no redress can be had short of a change of constitution.

The 26th section of the amended constitution, ordaining that no minister of the gospel shall be admissible to a seat in either house of legislation, while he holds his pastoral function, has undergone a slight alteration in phraseology, but not in meaning. It was expected by some, that the justice and propriety of this section would have awakened the scrutiny of the late convention. Is exclusion from the legislative department designed to subserve the interest of the church? If so, how much more decorous and proper to leave it to the ecclesiastical department? The writer believes that the interest of the church would be suitably consulted in this way, without the application of civil coercion. The federal constitution lays no coercion on ministers of the gospel, and yet by the discipline of various respectable churches, their clergy in all ordinary circumstances, are prohibited from being candidates for a seat in the legislative department. Is not legislation a privilege? is not exclusion from privilege a punishment? Does not righteous punishment suppose criminality? Where is the criminality here? Are the ministers of our holy religion to be confounded with the heathen priesthood, or with the emissaries of the church of Rome?

But the section now under consideration does not consign the ministers of the gospel to perpetual and persevering despair. It implicitly opens a door of hope that the contaminations of the clerical character may be wiped off, and that the ministers of the gospel may yet be admitted to the honors and privileges of legislation. Should a minister of the gospel be seized with a spirit of duplicity, and worldly gain; should he become a Demas and forsake the gospel for the law of the present world; would he not then be constitutionally admissible to a seat in legislation? Or might, not a door of hope open to one of these exiled characters in another way? Suppose a minister of the gospel to be guilty of some atrocious crime, such as lying, profane swearing, uncleanness, &c. &c. and the judicatory to which he is amenable, should take cognizance of him, and duly depose him from the ministry of the gospel. Quere,—would this be a sufficient recommendation to a seat in the legislature of North-Carolina?

JUNIUS.

Caleb Quotem, excelled.—In the village of Harvington, between Evasham and Alcester, (Eng.) a sign exhibited by the side of a barber's pole, thus announces the multifarious occupations, avocations and qualifications, of the industrious and indefatigable inmate:

"James Farrant, joiner, cabinet-maker, and builder, brick-layer and plasterer, repairs all kinds of machinery, keeps a journeyman carpenter to do all sorts of black-smith's work, hangs church bells, pig-killer, rings pigs and slays, bellows-mender, tooth-drawer, and hair dresser, well-sinker, and thatcher, jobbing gardner.—N. B. Game keeper to the Manor of Norton and Linchwick."