

# CAROLINA CENTINEL.

VOLUME II.]

NEWBERN, N. C. SATURDAY, JANUARY 22, 1820.

[NUMBER 96.]

## TERMS.

THE CAROLINA CENTINEL IS PUBLISHED WEEKLY BY

JOHN I. PASTEUR,

At THREE DOLLARS per annum, one third payable in advance.

No paper will be discontinued until all arrearages are paid up, except at the option of the publisher.

ADVERTISEMENTS inserted at 50 cents per square the first week, and 25 cents a square for each succeeding insertion.

## GENERAL ASSEMBLY.

### SPEECH

Of WILLIAM GASTON, Esq. in the debate on the Convention Question.

Mr. GASTON had foreseen the difficulty of discussing the proposition before the committee, without exciting unpleasant sectional feelings, and on that account would have been content to keep aloof from the debate, could he have reconciled such a course to his sense of propriety. But as it had been his habit to take a part in most of the important discussions of the Senate, his silence on this occasion might subject him to the imputation of voting under the influence of motives which he was unwilling to avow.

The proposition before the committee, said Mr. G. is of a peculiar character, and of no ordinary consequence. It refers to no subject coming within the scope of our legislative functions. It points to no act which the constitution of the State, the only legitimate source of our powers, authorises or requires of us to perform. We, the creatures of the Constitution, indebted to it for our ephemeral existence, elected by the people to administer a part of the authority which that Constitution directs to be delegated, we are invited to proclaim that the Constitution is radically defective, and to counsel the people to set it aside altogether!

He would not say that an emergency might not arise to vindicate such an assumption of undelegated confidence. He would not deny that we might be justified, on an urgent necessity, in inviting the people to re-model their frame of Government. But this he would say, that prudent and conscientious men would pause long, and reflect well, before they proceeded to such an extremity.

It is assuredly incumbent on those who maintain the affirmative of the proposition before us, to show, not merely that defects exist in the Constitution, but that such defects exist as produce practical and serious evils to those who live under it. We will not counsel the people to lay violent hands upon this their bond of union and charter of freedom, because it may fall short of the visionary notions of perfection, or may not correspond with the rules of political symmetry which theorists admire. Such violent experiments will not be recommended, but upon a conviction that they are required to remove ills, actual, acknowledged, general and oppressive. Nothing less than such a conviction will warrant a recourse to the extreme remedy of a dissolution of the political system into its original elements, and an attempt to re-assemble them under more fortunate forms of combination. The gentleman from Orange was aware that he was bound to exhibit a case demanding such an interposition, and accordingly he has been pleased to present his Manifesto of Grievances.

When an individual is thoroughly persuaded of the excellence of the end which he seeks to accomplish, and which cannot be effected but by the co-operation of others, he may deem it justifiable to advance, not only the reasons which influence his own mind, but those which he may hope will have influence with others. It was upon this ground alone, that Mr. G. could account for much which had found its way into this catalogue of wrongs. He knew too well, and he esteemed too highly, the gentleman's understanding, to believe it possible that he regarded many of these items as of serious import. It was the alleged inequality, the supposed injustice in the Representation of the People, in this and the other branch of the Legislature, that induced the gentleman from Orange to desire and to recommend a Convention. All else alleged was inserted as a mere make-weight—it might help on the proposition—perhaps if it did no good, it would operate no harm. Laying aside, then, for the present, all minor grievances, let us come at once to this grand object of complaint, which alone can justify us, if we can be justified, in intermeddling with our Constitution.

It is said that the Representation is greatly unequal and highly unjust, and that the Constitution ought to be amended so as to render the representation

conformable to the principles of Republican Government. And the gentleman asks, if there be one *hardly* enough to deny this proposition? However strangely (said Mr. G.) it may sound in the ears of my friend from Orange, I am yet to be convinced that the representation is unjust, or repugnant to the principles of a Republican Government.

What does the gentleman lay down as his just and Republican principle? Is it that numbers alone shall govern? If it be, I deny its correctness. The object of every political association ought to be the happiness and well being of its members. In the distribution of its powers, it is right, therefore, to keep in view the interests of all portions of the community. One of the most important ends of government is the protection of property.—If the principle of numbers be alone regarded in regulating the powers of government, property becomes the prey of physical strength. Upon what principle do we, the members of this Senate, hold our seats? Not on the principle of numbers. No man but he who owns 50 acres of land has a voice in our election. Is this institution; this branch of the Government, a fungus on Republicanism which must be torn away? Is the Government of the United States founded on Republican principles? Mere numbers do not there furnish the principle of representation. The House of Representatives, the popular branch, has its members apportioned by a ratio approaching to that of numbers, by adding three-fifths of the blacks to the entire white population. The Senate, which divides the legislative power with the House of Representatives, and the executive power with the President, is founded on the federative principle—on the equality of States, as constituent integral members of the confederacy. And the President derives his appointment from Electors, chosen both on the federative principle & the modified principle of numbers. Is all this unjust & unequal? Has the discovery been made in these our days of special illumination, that the whole of this is repugnant to the principles of a Republican Government?

The principle of numbers alone is not a correct principle of representation.—The principle of wealth, taken alone, would furnish a basis of representation equally, if not more objectionable. Combine them, & you may arrive at a criterion free from exception. Examine the constitution under which we live. Greatly as it is decried, it will be found to exhibit a combination of these principles, much more precise than is generally supposed—a combination sufficiently exact for all practical purposes—and under which the rights of all classes and sections of the community receive a protection, which it would be madness to throw away in pursuit of some ideal visionary good.

The inequality of representation is alleged to operate with all its force against the western section of the State. Let a due North and South line be drawn thro' the city of Raleigh. It will divide equally the counties of Granville, Wake and Bladen, and reach the South-Carolina line at the point of union of Brunswick and Columbus counties—On the East of this line are thirty-two counties—on the West twenty-seven. The former may be called the Eastern, the latter, the Western, & the three divided counties, the Central counties. Every county sends one member to the Senate, and two to the House of Commons. There are four borough towns to the east, and three to the west of this line; which send each a member to the House of Commons.

If we take the principle of numbers, under the modification which prevails in the representation of the people in the House of Representatives of the United States—under that modification, which this state upholds as correct in her federal compact with her sister States, and which they have agreed to allow as correct—we shall get a fit basis for popular representation. The whole federal numbers of the State are 490,000—and the average federal number of a county is 7,900. The twenty seven western counties having a federal population of 253,000 would, according to this ratio, claim five more Senators and eleven more members of the House of Commons than they now have.

It is not practicable to obtain as definite a basis from the representation of property. One however will be taken which the friends to the western claims ought not to object to. In a Statistical Table, to be found in a Memoir on Internal Improvements, the work of the same estimable man to whom the gentleman from Orange had referred for his statement, is to be found a Table representing the value of the lands and slaves in the different counties of this State. As it is very certain that the Eastern counties contain

an infinitely larger portion of circulating wealth than those to the West, an estimate of property according to this Table, would be highly favorable to the latter, and unfavorable to the former. According to this Table, the wealth of the State in land and slaves is 96 millions of dollars. Of these, the thirty-two Eastern counties contain fifty-two millions and a half, the Central counties seven millions, and the Western counties thirty six millions and a half. If representation were apportioned on the principle of property, as collected from this Table, the Western counties would have five Senators and ten members of the House of Commons less than they now have. They now have twenty-seven Senators and fifty-seven members of the House of Commons—but, according to this ratio, they ought to have but twenty-two in the former, and forty-seven in the latter.

There is another calculation by which we shall arrive at a similar result. Among the taxes imposed for the support of Government, are a direct tax on lands and slaves, and a tax on the free male population between twenty-one and forty-five years of age. Abstracting the revenue derived from these sources, from that furnished by every other means, it is a revenue collected on the combined ratio of property and numbers. Representation, on a ratio combined of the principles, would be nearly proportionate to this revenue. How then does it affect the claims of the different sections of the State?—The whole revenue thus collected is \$55,426. The eastern counties furnish \$26,798 & the western counties \$24,188. The average of a county is about \$894.—This multiplied by 27 gives \$24,138—but \$45 short of that which the western counties yield.—If this be taken as a criterion of what would be produced in representation by the combined operation of the principle of numbers and that of property, the western counties would be entitled to claim no addition to their strength in the Senate, and but one member more in the House of Commons.

Where, then, is this monstrous inequality so abhorrent from all notions of justice, so repugnant to the principles of republican freedom? Take the principle of numbers, and it is admitted that the western counties have not their rightful portion of political power. Take the principle of property, and they have more than their rightful portion. The excess on one principle, is fully equal to the defect on the other. Where, then, is the intolerable evil which calls for this political suicide? Is it designed, when this constitution shall be buried, to raise from its tomb one arrayed in the glories of modern republicanism? Is this the hope and consolation held out to us beyond the grave?—In the blessed state of things then to begin, is there to be an exact apportionment of power to numbers? Shall we then realize that perfect equality, that equitable principle of association, by which one set of partners shall contribute the funds and the other lay them out? The property of the East pay the taxes, and the population of the West spend the money? Indeed, some of us must be excused if we are not yet so captivated by these promised blessings as to forego the tolerable comforts which we now possess.

That the Constitution has its defects, no one can doubt. But has it been shown, can it be shown, that it operates oppressively or unequally? In what instance has injustice been done? Where are the wrongs committed? Who are the oppressed? The formation of a government is not an every day business, in which an error committed may be rectified as soon as done—rashness and petulance may easily pull down the political edifice—it requires consummate wisdom, virtue and patience, to re-construct it. Old fashioned as is the fabric which now shelters us, it has worn well. Its workmanship may be plain—not accommodated to the refinements of fastidious taste—but it has kept out the wind and weather for forty years—it has yet the appearance of solidity and the promise of duration—and we may not feel ourselves as much at ease in a new one.

Much seems to be hoped for in the improvement of our Constitution, from the tranquillity of the season in which we shall set about its amendment. Such a hope, however, is not without its alloy. However favorable a moment of profound quiet may seem to be for re-organising the shattered fragments of a State, it may be well doubted whether such a moment be on the whole most propitious to so great an undertaking. We must take ourselves such as God has pleased to make us—frail, imperfect, fallible creatures—under the dominion of our every day passions and prejudices. When great occasions occur, when danger threatens, then indeed is elicited the divine spark which animates

our nature. The heart is depurated from every vile motive. The energies of the soul rise elastic under the pressure which would bear them down—& man becomes superior to his ordinary self. It is with a people, as with individuals. No man is hero every day. A people is best fitted to meet in Convention when the urgency of the occasion will not permit them to do wrong.

Adverting now to the other topics which the Gentleman from Orange had dwelt upon as subsidiary to his primary object, Mr. G. said, he would endeavour to discover how far they supported this proposition for a Convention. He was perfectly willing to concede to the Gentleman the truism upon which he so earnestly insists, especially after the qualification with which he had stated it: "that whenever it was convenient to the people they should elect their own officers." By convenience, the Gentleman has properly declared he did not mean a mere physical ability to attend the polls, but practical utility.—Thus explained, who doubts the proposition? A declaration from us to this effect will be no extraordinary proof of our sagacity; nor will it greatly enlighten the people in regard to their rights.—Wherein ought they to exercise this right of election, and do not, under the existing Constitution? Let it be shewn that their "convenience," that their practical good would be promoted by a change, and then something is proved. It is for their interest, says the Gentleman, that they should elect the Governor, and not permit him to be chosen by the General Assembly.—And how is this position established?—"The Governor is not the Governor of the General Assembly, but the Governor of the People." True, and the Judges are not the Judges of the General Assembly, but the Judges of the People. Yet the Gentleman is willing that the appointment of these shall continue with the Legislature. What practical good will result from rendering the choice of the latter immediately dependent on popular suffrage? It may give the office a factious consequence which it needs not, & which it ought not to possess. In Governments which come in contact with those of foreign states, either in negotiation or war, the Executive is a very important branch and must have vigour, energy and patronage. These are evils which the friends of civil liberty view with regret—but to which they submit because they are unavoidable. But in a government which regulates only the internal concerns of its own people, it is neither policy nor republicanism to give artificial importance to its executive arm. The Governor ought not to be trusted with extensive power, nor vested with patronage.—He ought to be simply, what he is with us, the first officer of the law—charged to see it faithfully carried into execution. Nor can the people, the members of the political association, which we call the State, feel their rightful power abridged by the appointment of this officer being confided to their immediate agents, the members of Assembly; more than the Stockholders in a monied institution feel their rights jeopardized by the choice of a President being left to the Directors whom they appoint.—Perhaps the contemplated alteration may have another practical effect.—Increase the power and splendor of the Governor, and let him be chosen directly by the free male population of the country, and you bring into more extensive operation the principle by which that section of the State in which the white population predominates is to bear down the section where there is less strength and more wealth. Should it have this effect, Gentlemen have at least the merit of consistency in classing this proposition with the others which would array numbers against property.

That this scheme will not increase the actual weight of the people in the government, the Gentleman from Orange has been good enough to prove to us. There was no part in the Constitution of the U. States on which its framers had bestowed so much attention as on that which directs the mode of choosing the President. Every avenue to faction and intrigue was supposed to be barred. The election was to be a popular election—but freed from the vile wars and dangerous violences which too often attend such a choice—and what has been the result? The Gentleman himself tells us—the election is nominally made by the People, but really by the Congress of the U. S.—And what assurance can he give us that the same practical consequence will not follow here, from an adoption of a similar mode of choice? The people may be roused and cajoled, and irritated, and abused, by the clamors, calumnies, slanders, and other detestable artifices, of the agents of faction, as is practised in N. York, Pennsylvania, & other states, before the election

of a Governor—they may be brought to witness excesses in election contests, and even to take a part in them, disgraceful to human nature, and as yet unknown among us—but will they not, in general, appoint him who comes recommended by the majority of the General Assembly?—Knowing not the candidates personally, what safer criterion can they take for judging of their claims? And is the constitution to be changed to mock them with the form, while the substance of the appointment is retained by the legislature?

Among the weighty reasons assigned for calling a Convention, is the necessity of giving to the people the immediate appointment of Sheriffs. It has been correctly remarked, by the Gentleman from Hertford, that if it be wished to change the present mode of appointing Sheriffs, it is in our power to make the change.—If we believe the general good would be advanced by causing them to be chosen by popular suffrage, we have but to pass a law, & Sheriffs will be so chosen; but the Gentleman from Hertford has therefore regarded this project as a bait thrown out by a skilful angler to catch the unwary. If it be so, permit me to say, that our Rivers below the falls abound with gudgeons who bite eagerly, and are easily taken; but that I do not believe a minnow can be found amongst them who can be caught with a pin-hook, concealed in this bait. Indeed, Sir, nothing but my sincere respect for the Gentleman from Orange, can prevent me from regarding such a reason for a Convention with contempt. He would have a proposition to elect Sheriffs by the people been brought before the General Assembly; and as repeatedly has it been rejected by a large majority. At this moment, we have a bill before us for the purpose—and, my life upon it, this bill will share the same fate with its predecessors. How, then, can we dare we, in our new character of self-appointed counsellors of the people, give a solemn vote, that Sheriffs ought to be elected by popular suffrage, and that for that purpose a Convention is necessary, when, in our legislative capacity, we refuse to have them so appointed?

The next proposition, in the list of contemplated amendments, regards a subject, which the Gentleman from Orange declares that he approaches with reverence and awe—the tenure of judicial appointments. Sir, there was nothing in the Gentleman's proposed innovations on our fundamental laws, when first announced, which more excited my astonishment and regret than that which seemed to have in view a subserviency of the Judiciary to the Legislative Department of the Government. It was some relief, it was a great gratification to me, to hear him remark, near the close of his observations, that although he must insist on the principle of rendering Judges removable from office by a vote of the Legislature, he would require, were he to have a voice in Convention, a vote for this purpose little short of unanimity. This might, indeed, mitigate in practice the mischief of the principle which he seeks to introduce, but however mitigated, it would be pregnant with evil. In the theory of every well regulated government, those who expound, should not only be distinct from those who make the law, but they ought to be superior to their frowns, and independent of their favors. Spotless honesty, reflecting wisdom and inflexible firmness, are the qualities which ought to preside on the judgment-seat. To enable us to procure them in the highest degree which the infirmity of our nature will permit, we should exclude, as far as practicable, every motive to corrupt, every passion to agitate, every lure to seduce, and every peril that may shake judicial integrity.—The Judge should feel himself responsible only to God and his Country. He should hope for no reward but their approbation. He should fear no evil but their condemnation. He should hold his office by the tenure of good behaviour. No man, no combination of men, should have the power to injure him while he behaves well; and no power in the State should be able to screen him if he do ill. These have been thought axioms, fundamental truths, in the science of political liberty. They have not the tendency to make the Judge as untruly pretended, independent of the people; but to rescue him from subserviency to other agents of the people. He is to depend on the people; & in the mode by which the people choose to prescribe his dependence.—If he misbehave, he is to be expelled from their service. But he is not to depend on those who, like himself are not delegates of the people, lest they might expel him because he will not hold their errors, or aid their wrongs.—The Gentleman from Orange does not contest this general principle—but he insists there must be a summary mode of getting rid of an incompetent judge in ex-