

# RALEIGH REGISTER,

AND

## NORTH-CAROLINA STATE GAZETTE.

"Ours are the plans of fair, delightful peace,  
"Unwar'd by party rage to live like brothers."

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#### PROCEEDINGS IN CONGRESS.

##### HOUSE OF REPRESENTATIVES.

THURSDAY, FEB. 3.

##### ELECTION OF PRESIDENT.

The House having under consideration, in committee of the whole, the rule requiring the doors of the House to be closed during the balloting for President, and the particular question being on a motion made yesterday to strike out that part of the rule which requires the galleries to be cleared at the request of the delegation from any one State—

Mr. Mangum of N. C. rose, in reply to Mr. M'Duffie of S. C. and said, that he felt great repugnance to obtrude his remarks upon the notice of the House at any time—a repugnance which, upon this occasion was certainly not diminished by the state of indisposition in which he found himself. That he felt it his duty to make a few remarks in reply to those he had just heard—not so much with the view of affording either interest or instruction to the House, as with the view of publicly avowing those principles which he considered sound, and by which he had determined that his conduct on the approaching occasion should be regulated.

The question said Mr. M. immediately under consideration, is intrinsically of but slight and trivial import, but it derives much consequence from other and more important questions that have been drawn into discussion. What, asked Mr. M. is the nature of the question before the House? It is one exclusively of policy. But from the manner in which it had been treated, he should have inferred, but for the gentleman's disclaimer, that his object was not so much to discuss the question, as to issue a sort of manifesto to the people of the United States, to justify those who yield to a strong current, and to damn those who resist it. It is a question not of open galleries or closed galleries. Gentlemen had therefore, been engaged in combating shadows: and much of what had been said had been addressed to a motion which no one had made.

The question as he understood it was simply this:—Whether the galleries should be thrown open subject to be closed at the motion of the Speaker, or whether they should be thrown open, subject to be closed at the request of the delegation from any one State. For his own part, he should have thought that the latter arrangement would have been conceded as a matter of courtesy, to those gentlemen who stand singly and unsupported by colleagues, as representatives from the weaker States. For himself, he had not the remotest idea that those galleries, let them be occupied by whom they might, were about to overawe the House or exert any improper influence whatever. His reliance was placed upon the deep moral feeling which pervades this nation. On this he relied to sustain gentlemen in the discharge of their duty: and on this he relied, more than on all the bayonets and cannon that military despotism ever wielded.

This is a mere question of order. The admission of strangers was an act of courtesy, granted, as such acts are always understood to be, upon an implied obligation of good behaviour. It was not to be presumed beforehand, that those who were admitted, would violate the laws of decorum: but, if they did, there could be no doubt that the Speaker was competent to exclude them; and as little doubt that he would do it at the suggestion of the delegation from any one State, that a free exercise of their rights required their exclusion.

He would again repeat, that he felt no fears from any attempt to overawe the House; and still less had he fears of the intrigues who had been spoken of, whether posted in the galleries, or operating in this hall. His position was peculiar; it was that of an armed neutrality, he had but little to hope, and nothing to fear.

He knew that he stood upon a narrow isthmus, lashed upon either side by the most angry surges, from which neither numbers nor denunciations should be able to drive him. Calling to his aid the little lights of his understanding, and with a heart bent upon the best interests of his country, he should firmly and fearlessly endeavor to perform his duty.

He should not, however, have troubled the House at this time with a single remark, but for the principles he had heard advanced; and against which he felt it his duty to enter his solemn protest. He had always listened to the gentleman from South Carolina, with great pleasure, and he must confess that he had heard him on this occasion with the more pleasure, because he thought he had perceived that his talents, his ingenuity, and his fertility of resource, had proved insufficient to sustain him under the weight of the cause he advocated. Whom, asked Mr. M. are we bound to obey, in giving our votes on the approaching occasion? We, I mean, who are in the minority? If I understand the gentleman, we are bound to obey the will of those whose candidate shall have the highest number of votes. I would be glad to know whether we are bound to do this by a moral obligation, or only by reason of the

philosophy of the Constitution, to which the gentleman alluded. If by a moral obligation, that obligation addresses itself to every honest mind with the force of a perfect obligation, it must be obeyed; and why then has the Constitution been so silly as to allow us a choice between three candidates, when we are morally, and of course perfectly bound to elect the candidate who has the largest number of votes in the electoral colleges?

[Here Mr. M. yielded the floor to Mr. M'Duffie, who wished to explain. He had not said that gentlemen were bound to elect the candidate who had the highest number of votes; on the contrary, he had said distinctly, that a plurality of votes did not make an election.]

Mr. M. resumed. He was then to understand the gentleman, that we are not constitutionally, but only morally bound, or, in other words, that we have no right to disregard the will of the people, as expressed in a plurality of votes in the electoral colleges. But, if so, was not the argument the same? The conclusion the same? Was not that obligation as binding, as an obligation emanating immediately from the Constitution? Must not every honest man regard it in that light? And must not every man who was not base enough to barter away his birthright for a mess of pottage—to sell himself for loaves and fishes, feel its binding power? If the obligation was a moral one, it was a perfect one, and as such, commanded perfect obedience. He must therefore, most emphatically repeat, that it was extreme folly; and not worse, in the framers of the Constitution, to give to this House the power of selection between three candidates, when, at the same time, the hands of members are tied up from the exercise of that power by the strongest obligations. The Constitution, then, holds out to us bread, and gives us a stone.

But this never was the design of the framers of the Constitution. And the very fact that they have given us the power to choose, is enough to prove that the principle, as stated, does not furnish the rule by which we are to be governed.

If, then, we are not bound by the gentleman's moral obligation, to elect that candidate who happens to have a plurality of votes in the electoral colleges, what is the rule by which we are to be governed? Is it by the vote of our respective States? That cannot be the rule: for the Constitution has not prescribed any uniform mode for the election of electors, but has left power in the Legislatures of the States. And it may happen in those States in which they elect electors by districts, that there may be a tie; that the votes for two contending candidates may be equal. How will gentlemen extricate themselves from this dilemma—the dilemma of a tie? Will they resort to their principle? It will fall them—it is not principle—it is, in my humble judgment, absurdity. The gentleman from South Carolina has asked the gentleman from Delaware, with a sort of triumph, to answer the case which he put, to wit: that if 130 votes should be given for one candidate, falling one vote short of the number required for an election, whether that gentleman would dare to resist such a majority? I would answer, that great respect is due to the opinions of the people. That it would be great impolicy, in ordinary cases, to resist so full an expression of the public will. But reasons might exist, which would render it the imperious duty of the representative, as an honest man, to resist it. There is no principle concerned, as I trust, I have shown. It is mere matter of expediency. But let me suppose a case, predicated upon the alleged principle, that we are bound to give our votes in accordance with the votes of our respective States, and ask the gentleman to answer it. There are twenty-four States, and three candidates for the Presidency. Suppose eight states should vote for each candidate; if we are bound to vote as our respective States do, no election can be made. And what will be the result? It is obvious. By adhering to the principle, of which the gentleman speaks, you postpone three candidates, upon whom the people of the United States had fixed their eyes, as fit persons for the Chief Magistracy, and each of whom had received the votes of one third of the people of the United States for that office. You set aside all these, and let the Vice President into that office; a man who had not received a single vote in the United States for the Presidency. What will the people's men say to this doctrine? and yet it is principle, sacred principle, according to the views of some gentlemen. But, says the gentleman, we are first to try to elect the people's man, and if we cannot effect that object, then, and then only, take up some other candidate. We must yield to the necessity of the case. Mark me, it is moral principle, says the gentleman, by which we are bound. A principle is surely a very bad one, which will not wear longer than one day, and which must be abandoned as soon as it is put into practice. But we must yield to the necessity of the case! I had thought that that which yields to any necessity whatever, was not moral principle, for moral obligation admits of no compromise. It is said that, if on trial we cannot succeed in electing a President, to prevent the Vice President's coming into that office, we must give away. But here are eight states in favor of each candidate—who is to give way first? If I give way first, may not my constituents reproach me with an abandonment of principle? If the gentleman gives way first, does he not abandon principle? Sir, such a principle as must be abandoned on one day's trial, is not a principle which I will ever recognize.

If, then, sir, we are under no moral obligation to vote for the candidate who has the highest number of votes, nor to obey the votes of our respective States; what, I again ask, is to be the rule which must govern us? Sir, it appears to me that the whole fallacy, which pervades the arguments of the gentleman whose views I am opposing consists in this—they are comparing the votes of the people, taken *per capita*, with the votes of twenty-four distinct and independent sov-

eigns. They are comparing things which have no points of resemblance, nor have they any assignable relation to each other. The States, as sovereigns, are all equal. The people, who make up those sovereigns, numerically considered, are totally unequal, and in that respect, bear towards each other various and diversified proportions. Are we then to be bound by the votes of our respective districts? (This is the doctrine of the people's men, and all are people's men, now-a-days, from the much reprobated caucus men, down to the humblest political professor.) Here, I trust, I may be permitted to say, that I shall for once in my life, at least, in the honest discharge of my duties, fall in with the doctrines of the people's men—I expect to represent the plurality of my district.

But are we bound by the votes of our districts? I mean, in point of principle? Did the framers of the Constitution design that we should be so bound? If they did, wherefore does not the Constitution prescribe a uniform mode of electing representatives by districts? And yet the power of prescribing the mode, is left with the Legislatures of the respective States. Some States elect their Representatives by general ticket, as does Georgia, for example. How will gentlemen ascertain the votes of their districts, under the general ticket system? Will they do it by resorting to the statement, that the state, in that case, is each member's district? If so, then each member is bound to represent the vote of his State. This brings the question back to the ground on which I have already adverted. It is true, that the gentleman from S. C. cannot be mistaken as to the vote of the people: for in that state they elect members by districts. Should he recognize the principle of perfect obedience to the voice of his district, then should also every other member. If this is principle, what would be the consequence of adherence to it, in the most of cases—indeed, in the actual posture of affairs at present? It is plain—no President could be made, and the Vice-President would come in. If it is principle, we are bound to adhere, but if we may give way, and are not bound to adhere, then it should no longer be dignified with the name of principle, but it is a mere question of expediency. Again, if we are not bound by the votes of our districts (as is clearly the case in some of the States, for the simple reason that they have no districts) but are bound by the votes of our respective States, then this dilemma might arise—A member might be obliged to vote for a candidate, who was opposed by every man in his district. Here he gives up the wishes of all his constituents, the only people upon earth to which he is politically responsible, and for what? To fall in with the vote of the State—and by adhering to that vote, no President is elected, and the Vice-President comes in, after all these fearful and patriotic sacrifices.

Again: If our States were all of equal size, that is, equal in point of population, and the people fail to make an election in the electoral colleges, it is clear that no election could ever be made by the House of Representatives, should the members recognize as correct, and adhere to the principle, that they are bound to vote in accordance with the votes of their respective States. In the present unequal size of the States, under any ordinary circumstances of combination, the operation of that principle would defeat an election nine times out of ten; and in no solitary case can an election be made by the House of Representatives by adhering to the principle, except by enforcing the odious doctrine, that the minority shall prevail over the majority—that is, by making thirteen or more of the smaller States, that had voted for one candidate in the electoral colleges, without effect, come into the House and do the same, with complete effect. What they were unable to do, by reason of inequality of population, they are made to effect by the equality of their sovereignty. Sir, if these are people's principles, I, for one, beg to be delivered from them.

It is said that, in matters of legislation, it is a vexed question, whether the representative is not bound to obey the will of his constituents, and that many great and wise men have held the affirmative. Sir, I would not give a button for the doctrine, either the one way or the other, so far as regards its practical utility. As to the mere theory, I concede it to gentlemen—they may delight themselves with whatever theories they please, whether ingeniously or artfully constructed. But, though the question, as to legislation, may be vexed, gentlemen tell us, that in the business of electing a President by the House of Representatives, there can be no doubt—the case is a plain one. Sir, I argue directly the reverse. In the business of legislation, the people, in primary assemblies, cannot act—it is constitutionally, it is physically impossible. There is, therefore, a propriety, in a representative government like ours, that the legislative body should respond to the voice of the people; that, as a reflector, it should give back the true image of the people's wishes. But, in the election of a chief magistrate, the people can act in primary assemblies. Those assemblies present the proper and the best mode in which the election can be made. But the people, having attempted an election in this mode, & having failed of success, the Constitution brings the election to the House: this House is the empire, the judge on whom devolves the settlement of that momentous question, which the people have been unable to settle themselves for want of greater unanimity.

Sir, I hope I have now succeeded in showing the fallacy of the gentleman's—pardon me—the people's doctrine, of instruction. What, then, is our duty, in the present crisis, and on the approaching occasion? Is it to fall into the ranks of the candidate, who may happen to be the strongest? (A very comfortable doctrine, indeed, particularly to us who happen to be in the minority; our understandings and consciences approving, we should like to be wafted with you gentlemen, on the strong currents.)—Is it to obey

the voice of our States? or, is it to obey the voice of our districts? It is, in my judgment, neither more nor less than this—To do what is right, according to the best dictates of our own understandings, and leave the consequences to God, and to our country.

It has been asked, how can we hold up our heads when we return home, if we have gone against the will of our constituents? Sir, we can hold our heads as erect as an angel. The man who has honestly done, what he understood, after deep and anxious reflection, to be his duty, may meet the eyes of his constituents, aye, the eyes of the world, and neither blench nor quail, though none should smile upon him. It has, also, been said, (and the remark, though it can have none here, may be calculated to have an effect abroad,) that, whenever a man has done deeds of renown, the people delight to honor him, and with great certainty, elevate him to the highest offices. Sir, this is a mere truism; every body here, knows that this is true. It is what the people will always do; it is, what they have done, in a thousand instances; but, sir, it is exactly what, in the present case, they have not done. Else, why does the election come to this House? Sir, a majority of the people have distinctly told you, that not even the most favored candidate is the man of their wishes. Neither is elected, though all may have been honored. It is we who must elect.

We have also been told, that, upon grounds of expediency, the sceptre ought not to be placed in the hands of any man who has not a majority of the votes of his countrymen; and that, if we do place it in the hands of such a one, we only place it there to lop off his arm. Sir, this will ill agree with what is a fundamental principle in the system, of the people's men. What, sir, are the intelligent and enlightened people of these States, who are so much flattered in one breath, to be represented in the next as ferocious as tigers! Are they to rise in their wrath, and hurl the full weight of their indignant vengeance at an individual who has done no harm? Who has done no one act to excite their displeasure? Suppose three candidates should come before us with an unequal number of votes, I admit we should very properly feel inclined to elect him "*ceteris paribus*," who had the largest number (for I would not willingly deprive gentlemen of the smallest comfort.) But, suppose the candidate who had the smallest number should, in the result, be chosen President, is it maintained that the people of the United States would rise in vengeance against that man? Surely, sir, whatever phials of wrath might be exhausted on the heads of their guilty representatives, the people would pour out none upon the innocent head of a man who had done no one offensive deed, and whose only crime had been to be constitutionally presented for choice, and constitutionally chosen.

In this country, we have seen from the foundation of the government, whenever a new party was about to organize itself, or a new faction to spring into existence, its very first breath was breathed in a holy and fervent love for the People! its ardor and devotion to the public weal, transcended only by the purity and disinterestedness of its motives. I confess, sir, that I have lived long enough to mistrust these ardors. When I see the frosts of age dissolving under the warm glowings incident to youth, and the patriot of sixty entering the lists with the very flower and chivalry of the land, endeavoring to outstrip them in demonstrations of love and devotion to the people, I begin to look about me; for I fear mischief or suspect treachery. I need not refer you only to your own history, but the history of other countries; and other ages, discloses the fact, that many of the bloodiest tyrants that ever disgraced humanity, began their career by fawning on the people, and sedulously and assiduously courting their favor.

It has been remarked by the gentleman from South Carolina, that all sovereign power resides in the people, and that every Agent in authority must act in obedience to that will. The abstract proposition is evidently true; but the difficulty arises in the application of it to the case in hand. How is the will of the people to be ascertained? Is it to be derived from the county meetings, town meetings, publications and rumors? Are we to resort to these loose, unsatisfactory and contradictory indications of the public will? Or shall we resort to the constitutional indication—to that expression which has been made thro' legitimate organs? If the latter, it is apparent that a large majority have voted against either of the candidates. What then is our duty? I would again answer, to select according to the best dictates of our understandings. And yet, says the gentleman, this doctrine is too strong for Revolutionary France, it would have been repudiated under the reign of Napoleon. Mr. M. said it was a little curious to remark the striking coincidence between the early professions of Bonaparte and those with which we are now daily saluted. He could hope that a coincidence should never exist in this country in any other respect. For what was the sequel in the case of Napoleon? Though his first love was the love of the People, and though he bowed with the profoundest respect to their will, yet he flattered, he coaxed, and he courted them, until he placed his foot upon their necks, and then crushed their liberties with the most frightful military despotism the world ever saw.

This is the natural order of things in a free government, to begin a Jacobin and end a tyrant. We are told we must bow to the will of the People, I grant it. But I shall look to the indications of that will, to a source which is unerring—to the constitutional indication of it. It is curious to remark how defective this poor, tattered constitution of ours is, according to gentlemen's notions of responsibility. They say we must vote with the people, (what people?) and yet the constitution guarantees to us the mode of voting by ballot, in the exercise of which, the vote of each delegation may be profoundly looked up in their own bosoms, and no human eye, not even the Argus eye of jealousy itself, can

detect for whom that delegation voted.—There are four States in the Union represented in this House each by one member. Those gentlemen, according to the rules established on a former occasion, and according to the rules reported on this, may hide their secret from all the world, if they choose. They have nothing to do but to make duplicate ballots, and drop one into each box, among 23 other votes, and how are their ballots to be known, to be identified? How does this comport with gentlemen's notions? How defective is the constitution according to their views! Instead of requiring members to vote in a manner to prevent the practice of fraud and deceit, that some constitution becomes "*particeps criminis*," by throwing the mantle over deeds of darkness and crime, by shielding them from exposure to the vengeance of disappointed ambition, or the scorn and hatred of a betrayed country.

There have been some politicians silly enough to imagine that the framers of the constitution looked afar off, and either dreamed or believed that occasion might arise, when this provision would be found most salutary, that the safety of the Republic would be found in the ignorance of the tyrant where to direct his blows.

For myself, said Mr. M. I hope I may be allowed to say, I hate mystery—I hate all concealments in the discharge of a public duty; and shall be one of the last to shrink from the severest scrutiny into the manner in which I may have discharged it. I would scorn the use of the mantle.

I advert to these considerations with the view of showing with how many difficulties this subject is beset, & how arduous would be the task of framing a theory according to gentlemen's views, that would harmonize its practical operations with constitutional provisions on the subject.

Sir, it seems to me, that the true conception of the framers of the constitution is this: that the representatives in this House would come immediately from the people—they are part of the people—presumed to be men of some character, connected with the community from which they emanate by a thousand ties; character, respect, family, children, a common interest, a common destiny. In a word, identified with that community in habits, feelings, sentiments, &c. and that when the result, so much to be deprecated, of the Presidential election being cast upon this House, shall happen, that all these ties and considerations form a sufficient guarantee that a wise, honest and judicious selection will be made. This view, I think, said Mr. M. is conformable with the theory of the constitution.

What are the cotemporaneous expressions of the constitution on this subject? In the work entitled the Federalist—a work written by some of the ablest men who were in the convention, and which is resorted to by the ablest constitutional lawyer, as high and grave authority, I find the following opinion:

"But as a majority of votes might not always happen to centre in one man, and as it might be unsafe to permit less than a majority to be conclusive, it is provided, that in each case the House of Representatives shall select out of the candidates who shall have the five (now changed to "three,") highest numbers of votes, the man who in their opinion may be best qualified."

And yet it is said, that these doctrines would be odious in revolutionary France—they are too strong for the reign of Napoleon.

Such are some of the difficulties into which gentlemen are deluded and bewildered by an overweening attachment to their newborn theories—theories that have sprung into life from a brain highly excited by political contests—theories that are cherished with all the love that the mother bestows on her rickety bandling.

But, Sir, if these theories may not be deduced from the letter of the constitution, may they not result from the philosophy of the constitution, of which we have heard in this debate? Yes, Sir, the philosophy of the constitution! That philosophy which I fear, is to arm this great government with that stupendous power which is to sink our State sovereignities into mere corporations—That power which has prostrated some of those barriers that the wise men of both the old parties recognized—That power which is incessantly, most fearfully, and alarmingly increasing.—Yes, Sir, the philosophy of the constitution! That philosophy which was reserved for the ingenuity and acuteness of modern times to discover; and of which that great and wise man, Patrick Henry—and a wise man he was—in all his awful vaticinations never dreamed of.—Yes, Sir, it is by courting these sovereign people sedulously and adroitly, that all Jacobins begin their career.

The people are sovereigns—but they are sovereigns in minority; they never have, nor will they ever come to the crown, whatever some of their flatterers may do—and yet they have the full enjoyment of one of the brightest and most undoubted attributes of sovereignty—the *sanctity of their courts*.

I trust I may say, and truly too, that I have as profound respect for the will of the people fairly expressed, as any man; and would preserve those interests committed to my charge as the apple of my eye. I would not look to the shouts of the multitude for the opinions of the people, but I look to their opinions as fairly and constitutionally expressed. To this I respond, to this I am obedient.

I regret that I have detained the committee so long on this subject. As regards the question immediately under discussion, I would not turn upon my heel for a decision of it, either one way or the other.

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