



AND

NORTH-CAROLINA GAZETTE.

"Ours are the plans of fair, delightful Peace,
"Unwarped by party rage, to live like Brothers."

VOL. XXIII.

FRIDAY, MARCH 1, 1822.

NO. 1171.

DEBATE ON THE CONVENTION QUESTION.

CONTINUED.

HOUSE OF COMMONS.

Dec. 18, 1821.

Mr. HAWKS.—I have watched with patient attention, Mr. Chairman, the progress of the gentleman from Hillsborough, (Mr. Smith,) in his march over this wide field of controversy. I have seen him, in the chivalrous spirit of reform, pass by no combatant who has yet appeared in the contest, and, like Gulliver among the Lilliputians, he has endeavored to throw the pigmies who surrounded him, hither and thither, at his own will and pleasure. The humble individual who now addresses you, has not escaped his animadversions, and therefore hopes the committee will pardon him for again entering the lists.

For himself, Mr. H. said, he thanked the gentleman for that ray of illumination he had thrown on the subject by quotations from *Vattel on the Law of Nations*. The gentleman deserved credit for the correctness of his quotations, and Mr. H. said he had only to lament, that in his search for truth, the gentleman had not proceeded far enough to discover the whole truth. This eminent writer had been represented to the committee as laying down the principle, that in republics, as the power belongs to the people, the people have the right to make what Constitution they please; and we, said Mr. H. are called on to adopt, as a fair conclusion from this principle, the strange position advanced yesterday, for the first time, by the gentleman from Fayetteville, (Mr. Strange) that as individuals in the great mass of the community, we are entitled to a vote on the subject, but when placed in a legislative capacity, it is beyond the power entrusted to us. This novel idea should be answered by *Vattel* himself; he was too profound in his views to lay down as a rule of action a proposition so indefinite as this; it would therefore be found, upon consulting him further, that in all contemplated alterations of an established form of government, the question of expediency was expressly recognized as a previous one. And who should answer the question? The people, by their delegates convened in supreme legislative council; and when, said Mr. H. this General Assembly shall have voted it to be expedient, we will return to the ranks of our fellow-citizens, and, acting on the principle read from *Vattel*, by the gentleman from Hillsborough, will proceed to the exercise of our rights as private individuals.

In directing the attention of the committee to the benefit which might be derived from the history of the sister States in the confederacy, Mr. H. said he had yesterday stated what he had seen in Connecticut, at the time that State met in Convention for the amendment of its Constitution. This statement had been questioned. The change had been called by the gentleman from Hillsborough, a contest between Church and State, in which the latter obtained the victory. Mr. H. said, that a very slight acquaintance with the State of Connecticut, was sufficient to shew that this was not the case. That Church which was represented as so obnoxious, contained within its body a majority of the people; in the struggle, therefore, it must have been triumphant. The fact was, it was a mere contest for power between those who had it, and those who wanted it, but who had no Constitutional right to it. The demon of faction there stalked abroad, and its track may now be seen by the mournful vestiges of desolation. The wisest and best men in the State stemmed the torrent in vain; they could only mourn over the calamities of their country, and the remembrance of its condition almost wrung from them tears of blood.

It might not be amiss, Mr. H. said, here to advert to another fact in the history of the adoption of the Constitution of Connecticut, as it might, perhaps, convince gentlemen that those States which had in this debate been applauded for their independence in demolishing the fabrics reared by the hands of their fathers, were not in all things worthy of imitation. The Convention of Connecticut met, formed its Constitution, sent it forth to the people, and called on them with insulting haste to decide after the deliberation of a fortnight, on the adoption of an instrument under which they and their posterity were to live perhaps for centuries. Changes in government were not to be made for light and transient causes, and whenever any change should be attempted in our Constitution, Mr. H. hoped it would be done with wisdom and deliberation. To make a Constitution, is not the work of a day, nor ought it to be entrusted to common hands; but no gentleman could say that in the present temper of the times, the timid haste of those who might fear the loss of power, would not force upon us the precipitate course pursued by Connecticut.

The attention of the committee had been called, by the gentleman from Hillsborough, to the Constitution of the United States. We have been told, said Mr. H. that in every correct system of representation, it is necessary, in order to equalize political power, to take into view both the population and property of a community. This is the principle which I recognized yesterday. The Constitution of the General Government, embraces this principle, and so does our Constitution; but to make representation perfectly equal, is, as was remarked by the gentleman from Granville, (Mr. Hillman,) impossible; and therefore the Federal Constitution, so far as representation is concerned, was formed in the spirit of compromise. And however gentlemen may ridicule the idea, there must have been a principle of sovereignty in our counties; and when these several counties adopted the Constitution, it was done in the same spirit of compromise.

But it is objected against the present system, that the Legislature appoints the Governor and Judges, and in this objection the real motive of opposition was developed; here was seen the hand grasping for power. He did not think the gentlemen from the West had any cause of complaint against

their friends from the East, on this ground. The West had certainly enjoyed its full share of honorable appointments; and from the county in which the gentleman from Hillsborough lives, no less than six members of the bar had been taken, within a few years, to grace the bench of our superior courts.

The gentleman from Granville had yesterday called upon the friends of the resolutions to place their fingers on any actual grievance growing out of the present system. None had been shewn. The evils complained of, said Mr. H. exist only upon paper; and we are asked to alter our Constitution because the delicate ears of hypercritical gentlemen are offended with its phraseology. But this morning, the gentleman from Hillsborough tells us in general terms, that our Constitution will be greatly improved by a revision, and at the same time admits that the new system will probably be stamped with the impress of human infirmity. Sir, I thank him for the admission, for on it we may build. I had thought, from the remarks of the other friends of these resolutions, that we had reached that era of intelligence, when we could not fail to better our Constitution; but if the labors of the present enlightened age, like those of the last, are to be stamped with imperfection, I would submit it to the understandings of those who hear me, whether it be not better to bear the evils that we have, "than fly to others that we know not of." We know what are the present defects in our government, but we cannot foresee what may be the defects in any new Constitution which may be formed. Mr. H. said he would point them to the wisdom of these latter days as displayed in the new Constitutions formed by Alabama, Missouri, New-York, &c. and he asked to be shewn any one of them better than ours.

He had asserted yesterday, that if representation was to be regulated by numbers and wealth, there was no inequality. His honorable friend from Beaufort, (Mr. Blackledge,) had repeated the sentiment, and declared that the revenue paid into the public coffers, from the towns on the sea-board, exceeded all that was furnished by the Western counties. This had been contested, and considered as totally irrelevant to the present question. Mr. H. thought it had much to do with the subject. North-Carolina, viewed as an independent State, possessed the same common interest; and that which tended to diminish the wealth of individuals, inhabiting any portion of her territory, tended at the same time to the common injury, for individual wealth was the foundation of national wealth. The Eastern section of the State, interested in shipping to a vast amount, and continually importing goods subject to duty, poured into the treasury chest of the Federal Government, a sum which, superadded to the revenue furnished by the East to the State Treasury, made an aggregate, compared with which, the amount of revenue raised in the West was small indeed. But some gentleman had been pleased to say, that the Treasury of the United States was not the Treasury of North-Carolina. True, said Mr. H. it is not our Treasury, Sir, but it serves in various ways to protect a portion of our territory, which furnishes part of the funds in the State Treasury, and thereby insures the permanency of those funds. Mr. H. said that a comment on the remark of his friend from Rockingham, (Mr. Morehead,) would illustrate his idea. That gentleman had said that our countrymen of the West were ready with their thousands of armed men, to defend us in time of danger. For myself, Mr. H. proceeded, I thank the gentleman; I am sure that our countrymen in the West would act the part of brethren; but, Sir, with a defenceless sea-board of great extent, unprotected by a naval armament, (which armament the East now contributes to support,) our Western coadjutors would find on their arrival, the vestiges of a victorious enemy, in our desolated towns and smoking villages. They would find, too, that they were deeply interested in our weal or woe, because in the body politic, as in the natural body, the affection of any one part will be felt by the whole system.

But the gentleman from Hillsborough, aware that the revenue furnished by the East to the General Government, is in its consequences advantageous to North-Carolina at large, attempts to evade the conclusion drawn from the fact, by telling us that these revenues are paid by the Western people, the consumers of the articles, and not the merchants. Mr. H. said it was true that the consumer paid the duty, but it was also undeniably true, that the tax did not fall on the people of the West, for a very small proportion of the importations of the East ever passed to the West of the spot on which he stood.

When I reflect, Mr. Chairman, said Mr. H. that these resolutions are but an invitation to us to sit in judgment upon our ancestors, I am forcibly reminded of the lines of a great poet, alike remarkable for his knowledge of human nature and for the sarcastic powers of his muse:

"We think our fathers fools, so wise we grow,
"Our sons in future times will think us so."

Sir, were this nothing more than an invitation to charge with folly those who have preceded us, I would now resume my seat; but I see in it something more, our assistance is asked to unbind and let loose upon the calm surface of that political sea on which we at present ride in safety, the angry winds of faction. That surface may be lashed by those winds into billows, on which some few may float in safety to office and to honor, but when we would fain see its turbulent waves once more at peace, we may look around in vain for the master spirit who can "ride upon the whirlwind and direct the storm" of a political tempest.

One word more. In my soul I do believe the proposed measure inexpedient; and I beg my countrymen to bear in mind, that to make a Constitution is one thing, to make a good one is another. Our present Constitution is a fabric reared by our fathers, and within its walls we have lived for many years in safety; in tearing it down, to erect a more modern edifice in its place, we may be overwhelmed in its ruins, we may sow the wind only to reap the whirlwind.

Mr. STANLY said, that rising under the disadvantage of addressing the House, after the subject had been very fully discussed, he would detain them but a short time, while he humbly gleaned over the field which others had reaped.

The question under consideration is not one of the common interest of legislation, an error in which admits of an early correction. We have before us a proposition to abolish that Constitution which we, and our fathers before us, have revered as the charter of our liberties, and to trust to the uncertainty of chance for a better. Before we venture upon this hazard, let us cast an eye upon the Constitution which it is proposed to destroy. The instrument we speak of, is not the formation of yesterday: it is that institution under which we have lived since the birth of our Independence; which has secured to us our lives, our liberty and the pursuit of happiness; which has proved itself amply competent to all the objects of national prosperity; which claims our veneration and confidence for all the sanctions which time and experience can give, and from the assurance that under it we enjoy every blessing which belongs to man in society. With equal rights to acquire and enjoy property: the right to honor and office is also equal, and the poorest man in the community, presses his infant boy to his bosom, with the cheering reflection, that with industry, virtue and talents, his son may aspire to the highest offices of the State. Such is the Constitution we now possess: the work of man, it cannot be perfect: like other human institutions, a mixture of good and evil, it has its defects: but the evils imputed to it should not only be manifest, but should be great, before we venture on the dreadful experiment of destroying it, with no certainty what we are to obtain in its place.

The gentlemen who advocate the call of a convention, allege the evils of the Constitution are to be found,

1. In the unequal representation of the people.
2. In the want of power in the Legislature to remove the Judges.
3. In the mode of appointing militia officers.

Other objections, if they have them, they have not thought proper to mention.

The objection to the Constitution on the ground of unequal representation, is attempted to be supported, upon the allegation that the right of representation is equal; that the same number of persons have the same rights, and should have the same influence in government, or in other words, that population should govern representation.

In passing to an examination of the foundation of their claims, Mr. S. said, he would barely notice a difficulty which at the threshold met these advocates of equal rights of all persons. If all persons have equal rights, why are women excluded? Why are minors excluded? Because there are other considerations than the mere existence of a person, to support a claim to a share in government, his views of which, it was his purpose to offer; at present, he would without levity say, that in his opinion, the exemption of the sex was rather a privilege than an exclusion: their duties were of a higher, a more important, and of a more interesting nature—the instruction of their children, the care of their household, and the happiness of their husbands.

The imputed error of representation under the Constitution is divided into two parts; first, that the counties of the Eastern half of the State, with a less white population, have a greater number of Representatives in the Legislature than the counties of the Western half; and second, that particular small counties have as many Representatives as the largest.

To test the solidity of these objections, it is necessary to ascend to an enquiry into the ELEMENTARY PRINCIPLES OF SOCIETY. Society is not formed, said Mr. S. merely to establish the right nor to regulate the conduct of its members, in regard to personal liberty; if this were the sole object of government, the personal liberty being the same, the rights of all would be equal: but, (without seeking for higher or older authority,) from the time when it was commanded, "thou shalt not steal, thou shalt not covet thy neighbour's goods," the right to acquire and to enjoy property is as clearly established, and is as essential to the enjoyment of life, as the right of personal liberty. The rich are poor, as well as the poor, and the right of property, whether large or small, is alike sacred. This security equally benefits those who already possess, and those who seek to acquire property—it stimulates to enterprise and industry. Revenue is the vital principle of government: without it, its wheels are effectually stopped: this revenue, property pays. We hold it, therefore, a fundamental principle in government, that barriers should be erected for the security of property; that the possessors of the property of a State, or of a District, should have a weight in its affairs, proportioned to the contribution they make to its support, and to the State which they have placed upon its prosperity. Not in government only, but in every association for the management of property, this principle is seen to operate. In Banks, in Navigation Companies, in estates held in common, the influence or control of each proprietor is proportioned to the amount he has contributed to the Common Stock.

That no man's property can rightfully be taken without his consent, in other words, that TAXATION and REPRESENTATION are inseparable, was the very basis of our Revolution. The violation of this principle by the parent country, first provoked our resistance; on this solid ground, that taxation and representation were inseparable, our fathers planted the Standard of Independence. To prove this, Mr. S. said he would read short extracts from some of those eloquent remonstrances addressed by the Colonies to Great-Britain at the commencement of the Revolutionary contest. The Book was a volume of Marshall's Life of Washington, which he found at hand.

[Mr. S. here read extracts from various addresses of the American Colonies to the British Government, in which it was claimed as a "fundamental axiom, that taxation and representation are inseparable from each other;"—"That the