

RALEIGH REGISTER, AND NORTH-CAROLINA GAZETTE.

REV. MR. AVERY.

in electing Delegates to deliberate on the subject, and to devise the best forms, they might not have believed it *expedient* to limit them. The aim they had was to avoid anarchy, not merely to correct governments; but even if they had desired to instruct or limit their delegates, it was not conveniently practicable, to impose a limit, for the want of a body of representatives, through whose intervention it might be marked out for the sanction of the people. Does any one doubt that it comes within the province of a Legislature, to prescribe the means of enabling the people to call a Convention? Upon what principle is this, except that they may, as the people's representatives, make recommendations for the sanction of the people? If they are made and sanctioned, then by what process can it be demonstrated, that such recommendations bestow *unlimited power*, when in their terms they are *specific only*? Say that the Legislature has recommended to the people, a Convention *without limit*, and they refuse to sanction it; that immediately after it, they recommend a Convention, with power only, to abolish the 32d Article of the Constitution, and this recommendation is confirmed by the people, and a Convention accordingly assembled. Can there be a doubt, that the Convention is strictly *limited*, and that they will not—cannot exceed their bounds? Say that those who penned this recommendation, timid and jealous of power, superadded that upon the questions submitted, to the Convention, their vote shall be final, but if they shall attempt to do more, then no act of theirs shall be valid and binding without the subsequent ratification of a majority of three fourths of the people, "or even the unanimous assent of the people," duly elected taken by a vote at the polls within 30 days after the adjournment of the Convention? Where, and what is the danger of such a Convention?

But we are not left without the light of experience to guide us on this interesting subject. Since their governments were formed, and the means of conveniently providing a limit were thus furnished, it has not been unusual with the States to impose it in some form. When the Federal Constitution was proposed to the people of the States for their acceptance, each State called a *Limited Convention*; these Conventions had no power to do more than to accept or reject the whole plan, as it was proposed; unless it was in cases where the Legislatures recommended that they might exercise certain other *Unlimited powers*, and the people ratified it.

New York, whose constitution was like ours, silent as to the mode of revoking it, had experienced the same inconveniences from her representation that are now felt in North-Carolina, as well as other inconveniences, from doubts entertained on another article of her Constitution. The Legislature recommended the people to approve the calling of a Convention in 1801 to remedy these evils; but the Convention was *limited* to these powers and duties *only*. When the people of Virginia called a Convention to revise their Constitution, it was *limited* to the duty of framing the amendments they deemed expedient, or preparing a new Constitution, and submitting them to be approved or rejected by the people at the polls. So the Convention regarded it, and so they acted. The Constitution of New Hampshire provides that a *Convention* may be called every seven years to amend it; but the powers of this Convention are expressly *limited* by a clause that no alterations shall be valid until they are laid before the people and *ratified by them*. The People of Georgia have elected Delegates to a Convention, which is *limited* to specific duties and was organized by administering an oath to the members, that they will not attempt to violate the boundaries prescribed for them. In our State we have had two *Limited Conventions* since 1776, the one to consider of the Federal Constitution and permanently to locate the Seat of Government—the other to reconsider the Federal Constitution and to give Fayetteville the right of electing a member to the Assembly. But we will not pursue it further. No fair mind will demand further proof that it is consistent with both the theory and practice of our government that the People may *limit a Convention* to specific subjects of consideration, and whether they will do so or not is a question not of right but of *expediency*.

The mode of altering the Constitution is recommended by the report of a Committee in our last Legislature may be properly adopted. *Why may not the General Assembly submit to the People certain specific emendations for their adoption?* If the Legislature may recommend a Convention to make an emendation—or to accept or reject specific amendments, and the people by ratifying such a recommendation can cause the Convention to be assembled for the purposes that are designated, it is difficult to conceive why the people may not vote directly upon an amendment proposed to them by the Legislature. It is impossible to maintain a contrary position until it can be shown that the People *desire* power and do not *confide* in *Conventions*—until it can be proved that the *confidence* is greater than its *creator*—that the servant is above his master." The spirit of truth is here also pointed out by experience and practice. It is a mistake if we suppose that the principle of this recommendation is without *precedent*. The Constitution of Connecticut prescribes this very mode of making alterations in that instrument.—The State of Indiana in effect, if not in words, confirms it by her own charter, as does the States of South-Carolina, Georgia, and Delaware recognize the same right in substance, by allowing changes

to be made in their Constitution by the votes of two successive Legislatures, the amendments being published and an election by the People having intervened.—Thus it is demonstrated that this plan for amending the Constitution is not liable to any objection on principle.

Since our Constitution is silent as to the mode of proposing amendments to it, the People are free to adopt any course which is consistent with the principles of a popular Government and the practice of the American States. If this mode of reform is proper in itself, there are some views of its *expediency* which give it peculiar claims on our consideration. Much difficulty will be experienced in determining after what manner and upon what basis the People should be represented in a *Convention* called for the reform of an existing Constitution, and it is not unworthy of our notice that whilst this will cost nothing, a *Convention* will create some charge upon the public Treasury. Those who entertain any real fears of a *Convention* ought not to object to this plan, upon the ground of *expediency*, as they will be thus shielded against all dangers except "the will of a majority"; and even that will be restricted to an *age or no*—upon whatever the ruling minority shall consent to put forth for public sanction. The rights of the minority, will be protected against encroachment by the over-balancing power they have in the Legislature, that prepares the amendments to be submitted, and the rights of a majority are safe in *their own hands*, because they will not approve of an amendment by which they will be made worse off than they are now. What then are the objections urged against it? It is said to be novel in practice and prone to far too easy in its execution. We have shown already that it is not novel in principle, nor is it without precedent in practice; the experience of 50 years might convince us that it is not so easy of execution: for our Constitution was ratified in 1776 and has not been amended since 1789. Besides, it is proposed to quiet all such fears by the article which prescribes a mode for future amendments. It is said, however, that the right of the People contended for by this recommendation, "is founded on the assumption that all were born with equal political powers," and that it leads to the monstrous conclusion that a majority may impose upon the minority what Government they please; that they may abolish the representative republican institutions of this country and rear upon its ruins the most intolerable despotism! But these objections pass a sentence of condemnation upon the *Declaration of Independence* and the principles of the American Revolution; and when we deny this right of the majority of the People to remodel their Government, it leads to the much more monstrous conclusion" that a minority,—that one man may perpetuate the most intolerable system of tyranny over the rights of the majority, may usurp all the powers of the government and leave the majority with no rights but to practice the virtues of tame and quiet subjects. The people cannot fail to reprobate a principle of opposition that leads us to such conclusions. Sovereignty, a power which binds all others, yet is restricted by no others, and bound by no forms, must reside somewhere. In this country it is lodged with a *majority* of the people.

No objections can be fairly urged against the time at which it was proposed to take the vote of the People, for it is in the power of the Assembly to prescribe the most quiet and convenient period of the year.

Fellow Citizens of North Carolina! Is the fair exercise of a right that is common to all freemen in a free State, and in the execution of a trust, which was confided to us by a respectable body of the people and their representatives, we have laid before you, the complaints which are made against the Constitution of the State, with the grounds of complaint, and as far as the limits of an address like this would permit, we have also considered of those plain and practicable remedies, which are sanctioned by the principles of our government, and have been confirmed by the practice of the people in other States. We have endeavored to do this, not only with many plainness of speech, but with a strict regard for the feelings and pride of others. We have drawn no sectional lines, more such ought to exist, and we do not mean to be responsible for the consequences of any attempt to create or preserve them. The People of N. Carolina ought to be *one* in feeling, as they are in interest. We put it to the consideration of the people, whether this subject does not authorize an appeal to the *justice* of the minority, the *right* of a majority, and the *interest* of both? Whether those, who desire reform will not now *demand* it, and whether those who think their demands fair, will not now *concede* it. We sincerely believe, that the speedy settlement of these questions, involves the destinies of the State; that it will restore harmony where there is discord; that it will be the means of developing the internal resources of the State, without any resource to additional taxation; that it will economize the government, so as to bring its expenses below the regular ordinary revenues, that it will destroy the divisions of East and West, and disengage our representatives from the strife of sectional party; that it will stimulate them to higher and more exacting exertions, for reviving the arts and advancing the honour of the State.

Signed
W. M. HAYWOOD, Jr.
R. M. PEARSON,
R. M. SAUNDERS,
THOS. DEWS, Jr.

Committee
June 1st, 1833

Assembly House — A woman offering to sign a decoupage Judge asked her whether her husband compelled her to do so. "He compelled me," said the lady, "but not twice, I'm in him."

CHESAPEAKE AND OHIO CANAL COMPANY.

From the National Intelligencer.

It is due to the numerous friends of this enterprise, that they should have laid before them the particulars of the late election of President and Directors of that Company. We proceed to give such an account restraining, as far as practicable, from the exhibition of any personal feeling on the subject, without pretending to be free from it. The whole number of votes at the election was as follows:

FOR PRESIDENT.

John H. Eaton 3054 C. F. Mercer 3430.

FOR DIRECTORS.

William Price 569 Edward Lucas 4627

J. J. Albert 7510 A. Stewart 5834

W. Gunton 8331 F. Thomas 3017

W. Smith 10,811

P. Janney 10,330

R. H. Henderson 3145.

(The first selected.)

The vote for Mr. Eaton was made up of the following parts:

The United States 2008 votes

The Corporation of Washington 2008 votes

Individual Stockholders 1368 votes

For President, the proxies of the State of Maryland (Jr. Forrest and Mr. McCulloch) divided; and so were those of the Corporation of Georgetown. The votes, therefore, of both these interest were lost.

After the verdict was recorded, and the Attorney General observed, as a matter of course, the Defendant was now entirely discharged, he became suddenly but slightly affected, and a tear started to his eye. He passed his right hand deliberately under his glasses, and held it over his eyes for a moment, and in the next with the probable mode in which the fatal deed was done, the prisoner fixed his large eyes upon him, and scarcely moved them till the fearful picture was finished.

We find it impossible to give any specific information on this subject to-day, though we have spared no exertions to enable us to do so. We hope in our next to be able to report from an official source. We have no desire—we can have no rational motive for desiring—to mislead those at a distance on this subject. As nearly therefore, as we can ascertain, there were seven or eight fatal cases yesterday; and the number to-day will not fall short of that of yesterday. On Wednesday we stated the number of cases on the day previous to have been twenty—one, which the daily number, we are confident, has considerably increased—thus swelling the cases now under treatment to a large amount. We may, however, observe that the deaths do not by any means bear so great a proportion to the whole number of cases as has been usual in most other places.

Had these twof latter interests been voted upon, and the vote been (as expected) for Mr. Mercer, it would have added to his vote.

For Maryland 1200 votes
Georgetown 538 votes

and would have elected him, notwithstanding the combined run against him, by a majority of 182 votes.

The aggregate vote of Mr. Mercer was composed of the following particulars:

The State of Virginia 570 votes

Corporation of Alexandria 508 votes

Individual Stockholders 2362 votes

Of the votes of Individual Stockholders, therefore, Mr. Mercer received 2362 to Mr. Eaton's 1430. So, if the *Election* be determined against Mr. Mercer, the People, when speaking their own voice, have determined in his favor.

The Directors attempted to be put in by political influence were signally defeated. It seems as if Mr. Mercer was the only sacrifice upon which a majority could be brought to act together.

In the election of Directors it will be seen that Mr. Smith and Mr. Janney, received—evidently hundred votes more than the joint vote for President. This was caused by the votes of Maryland and Georgetown not being divided in their case, and the aggregate thereof, 1798 votes.

What was announced in a New-York paper, three months ago, to have been arranged, but was then treated with utter incredulity, has been thus consummated, in the election of Mr. Eaton, through the influence of the Government, to supersede Mr. Mercer.

The list of Directors, however, is an unexceptionable one, and some of them

have such practical experience in the business of this canal Company, as may go far to supply the want of it in Mr. Eaton. Let us hope, then, for the best, in regard to this matter, and that our great work may suffer no injury. We cannot hope, however, as a City, to escape the reproach of inconsistency and ingratitude, for the manner in which we have treated a faithful, enlightened and efficient friend as we ever had.

At an adjourned General Meeting of

the Stockholders of the Chesapeake and Ohio Canal Company, held on Saturday, at which were represented the U. States, the State of Maryland, the State of Virginia, the Corporations of Washington, Alexandria and Georgetown, and a majority of the individual Stockholders, the following resolution, proposed by Mr. McCulloch, in behalf of the State of Maryland, was adopted:

Resolved, That the thanks of the Stockholders

of the Chesapeake and Ohio Canal Company

are, in the opinion of this meeting, due to Chas. Fenton Mercer for the zeal, ability, care, and fidelity, which he displayed in discharging the duties of his office of President of this Company; and that, in consideration of the attention bestowed and expenses incurred by him, whilst rendering many services to this Corporation that did not pertain to that office, the President and Directors be, and they are hereby authorized and directed to pay to him the sum of Five Thousand Dollars in addition to his pay as President.

This resolution received an unanimous vote, except the Corporation of Georgetown, who preferred a different sum for the extra allowance, but concurred in the resolution.

A motion was then made from the same

quarter, to raise the salary of the Presi-

dent of the Company, to begin at this

date, from two to three thousand dollars,

and also to establish the office of super-

intendent, or Engineer in Chief,

to the Canal.

These propositions were, after con-

siderable debate, postponed to

August next, to which time the General

Meeting is then adjourned.

So far as concerns Gen. Mercer, per-

sonally, the proceedings of the Canal

Company, on Saturday, are highly satis-

factory, and cannot but be very gratify-

ing to him and his friends.

It is ac-

knowledged, unanimously, by those who

are employed in the Canal office, that their thanks

are due to him for the zeal, ability, care,

and fidelity, which he has displayed in

discharging the duties of President of the

Company. In addition to which his dis-

interestedness, in refusing heretofore to

receive remuneration for extra expen-

ses, and extra official services, is acknowl-

edged in the handsomest manner.

The sum voted to him is not more than due

for those arduous exertions of his which

we have all been sensible of, in judicial

and financial matters—at the bar in the

higher Courts of Maryland, and before ju-

dges all along the line of the Canal, &c.

for which he would never, whilst Presi-

den of the Company, consent to receive a farthing of compensation. *Ibid.*

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THE CHOLERA.

Our accounts from the West represent this disease as still adding to its numerous victims. The *Nashville Banner*, of the 28th May, informs us of its re-appearance there with renewed violence. From the same paper of June 1, we extract the following:

We find it impossible to give any specific information on this subject to-day, though we have spared no exertions to enable us to do so. We hope in our next to be able to report from an official source. We have no desire—we can have no rational motive for desiring—to mislead those at a distance on this subject. As nearly therefore, as we can ascertain, there were seven or eight fatal cases yesterday; and the number to-day will not fall short of that of yesterday. On Wednesday we stated the number of cases on the day previous to have been twenty—one, which the daily number, we are confident, has considerably increased—thus swelling the cases now under treatment to a large amount. We may, however, observe that the deaths do not by any means bear so great a proportion to the whole number of cases as has been usual in most other places.

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