

# RALEIGH REGISTER.

## AND NORTH-CAROLINA GAZETTE.

"OURS ARE THE PLANS OF FAIR DELICIOUS PEACE, UNWARP'D BY PARTY RAGE, TO LIVE LIKE BROTHERS"

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### STATE CONVENTION.

CONTINUATION OF PROCEEDINGS.

Saturday, June 13.

The Order of the day being the Report of the Committee of the Whole, on the 4th Resolution, which had reported a Resolution in the following words, viz:

"Resolved, That free Negroes and Mulattoes within four degrees, shall not be allowed to vote for Members of the Senate or House of Commons of this State."

Mr. Bryan remarked, that the difficulty he had suggested to the gentleman from Halifax (Judge Daniel,) had not been, to his mind, satisfactorily removed by that gentleman; and that he would briefly submit to the Committee, his views upon this subject. It is remarked by a distinguished author, "that the Constitution of a State may be free, and the subject not so—the subject free, and not the Constitution." The free negro, who does not enjoy an equality of rights with the white man, although he may be free to a certain extent, is subject to a civil slavery, and this is not inconsistent with the enjoyment of civil liberty, although it may be a partial restraint or modification of the uncontrolled exercise of all its privileges. This state of society will be found to exist under almost every Government; for in proportion as you grant exclusive privileges and rights, to nobles, or other privileged orders of society, you degrade, enslave and diminish the rights of others, who are excluded from a participation in them, and thus in a measure, produce a system of civil slavery; and yet those who are thus deprived of the enjoyment of equal rights, are freemen, and are recognized as such by the Constitution of the country. I do not, therefore think, that much strength of argument is derived from the fact that they are called freemen, abstractly considered from their rights as such. The gentleman further remarks, that they served long and faithfully in the Revolutionary war; this argument would apply with equal force and pertinency to our slaves, many of whom, the history of our country informs us, "did the State great and important services," in that trying and momentous period, and fought manfully and bravely in the embattled ranks of our Revolutionary armies; but the force and effect of this argument is much diminished also, by the fact, that at the second Congress of the United States, an act was passed excluding them from bearing arms in the militia. Honorable gentlemen have appealed to our magnanimity, and endeavored to excite our sympathy in their behalf—to my mind their lot and condition is a miserable one, and far surpasses the nondescript situation of the ancient Helots and Villens, or the ignoble condition of the oppressed peasantry of Poland, or the equivocal freedom of the European Swiss. This is to my mind, a nation of white people, and the enjoyment of any civil or social rights, by a distinct class of individuals, is merely permissive, and unless there is a perfect equality in every respect, it cannot be demanded as right; the history of our country informs us, that all the colored population were originally slaves, the first importation having been made into Virginia in the year one thousand six hundred and twenty; and it is now a matter of curious and interesting inquiry, how those who were subsequently emancipated, acquired the political rights of freemen. Is there to be found on record, any act of the Government, whereby these rights have been conceded to them? And, is it not rather to be feared that party strife and warfare, have given them a political importance which the institutions of the country never intended, and that, a long and silent acquiescence in the enjoyment of certain political rights, have created a violent presumption in their favor. I presume that when they were emancipated, they were permitted, without any express authority, to enjoy certain civil or social rights—the peace and security of society required it, and there was nothing incompatible "with the freedom and safety of the State" in this. Civil or social rights, are defined by Mr. Justice Blackstone to be reducible to three heads: the right of personal security; the right of personal liberty; and the right of private property. Can it be doubted, that the free negro might be permitted in our Government, fully to enjoy all these without being invested with those political rights which are so loudly and eloquently claimed for

him, by his able advocates on this floor. If by the laws of a State, the master is permitted to emancipate his slave, and thus to withdraw from him his protection and care, and consequently the security which as property, they throw around him, he must necessarily, by virtue of the spirit and equity of the same laws, become invested with certain civil or social rights, which will enable him to maintain his new relative situation in society; and these are all that he can claim. Are any more rights, than those of personal security, personal liberty and private property, essentially requisite to preserve and maintain the civil existence of this manufactured freeman. The nature of our Government and the institutions of the country, never contemplated that they should be placed upon an equality with the free white man. Does the Act of Assembly, which empowers our Superior Courts, upon petition, &c. of the owner of a slave, to cause him to be emancipated, confer upon that tribunal any power or authority to invest and confer upon the emancipated slave, any political rights? In my humble judgment, and I advance the opinion with due deference to the distinguished gentleman from Halifax (Judge Daniel,) such a construction is a misrepresentation of the powers of the act. It is true that the emancipated slave, in a qualified sense of the term, is made a freeman, but only so quoad the master—he is by the operation of that act, liberated and discharged from the control and dominion of his master, and made "a free negro." I would ask, in order to test the soundness of this construction, if the Legislature of any State can confer the rights of citizenship upon any individual, and whether any gentleman will advance the opinion, that any person, other than a citizen, can be permitted "to vote for members of the Senate and House of Commons?" Is a free negro a citizen? This brings me to the difficulty which I suggested to the gentleman from Halifax, at the opening of this debate. If he is a citizen, he is entitled to the full benefit of that clause in the Constitution of the United States, which declares that "the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States." And is this the fact? Has not our Legislature declared, and that too under the sanction of our Superior Courts, that no free negro shall come into our State except under very severe restrictions, and if any of them shall leave it and be absent more than three months, he shall in case he returns, be subjected to high penalties, deprived of his liberty and reduced to a condition worse than that of our slaves. In South-Carolina, a similar law has been enacted by the Legislature of that State, and a case arising under it, in which a free negro coming into the State was declared by one of its Courts to have incurred the penalties. [Here Judge Daniel remarked that the constitutionality of that law had never been determined by the Supreme Court of that State, but only by an inferior Court.] Mr. B. remarked that the force of the argument was not much impaired by that fact—if this law involved the great and inalienable rights of man, and conflicted with the fundamental law of the land, and was so manifest a violation of principle, why was not the question carried by appeal to a tribunal of ultimate resort? Why was the decision of an inferior Court, upon a matter which involved the freedom of slavery of a human being, acquiesced in? If this supposed infringement of a perfect right, was deemed of sufficient importance to require a resort to an inferior Court, the magnitude of the principle, the interests of the country, and justice to the free negro, if the decision below were incorrect, demanded a correction of the error by a Supreme tribunal. The uniform acquiescence in the constitutionality of the law, public opinion, legislative construction, and the decisions of our inferior Courts, at least create a violent presumption in favor of its correctness, and demand much respect in the discussion of a doubtful right. The States of Virginia, Ohio, Maryland, Louisiana and others, have expressly declared in their respective Constitutions, that a free negro is not a citizen, by depriving him of the right of suffrage; and the gentleman from Halifax might with equal propriety declare, that the Constitutions of those several States were in conflict with the Constitution of the United States, and consequently void. I will not attribute such monstrous doctrines to that distinguished gentleman; although, according to my humble judgment, there is a manifest conflict of authority and power, between the acts of the Legislature alluded to and the Constitutions of these States, and that of the United States, if it be insisted upon that a free negro is a citizen. The gentleman from Warren (Mr. Edwards) expresses doubts, whether a free negro is not included in the term freeman, so often mentioned in the Bill of Rights and Constitution of this State. If he be the descriptum personae, which that term includes, there is then, an end of this difficulty and debate. The expression of opinion advanced by the venerable President of this Convention (Mr. Macon) who was contemporary with the formation of the present Constitution of this State, is en-

filled to great respect, and coincides with the generally received opinion on the subject. He has declared, that previous to the formation of that Constitution, a free negro was never known to vote, and that he well recollects, that they never exercised that privilege until a long time after the adoption of the Constitution.—The caption to the Constitution of our State, declares it to be "the Constitution or form of government agreed to and resolved upon by the Representatives of the freemen of the State of North Carolina, elected and chosen for that particular purpose;" and in the body of the Constitution, after enumerating the grievances, and oppressions to which we had been subjected by the British Monarch, it declares that, "therefore, we the Representatives of the freemen of North Carolina, chosen and assembled in Congress, for the express purpose, &c. If free negroes, were not, previous to that time, nor until a long time after, permitted to vote, they were not represented in the Congress of Halifax; they had no part nor lot in the election of the representatives, and in the formation of our Constitution, the representatives never derived any authority from the free negroes, as a constituent of the freemen of the State; the Constitution was not framed with an eye to their rights & privileges, & they were not regarded at that time, as composing a part, even of the freemen of North Carolina, and with due deference, I make the assertion, that they are not freemen, within the meaning and operation of our Constitution. I would respectfully ask, whether an instance can be found, where a free negro was permitted to vote for delegates to the Congress of 1778, on which the old articles of Confederation were formed; and whether in declaring therein, that the citizens of each State, shall have free ingress, and egress, and from any other State, and shall enjoy therein, all the privileges of trade and commerce, subject to the same duties, &c. as the inhabitants thereof respectively; & it even was contemplated, or admitted, that free negroes, were intended to be included within the provision. The history of the times proves the contrary, and the declarations of the venerable gentleman from Warren, (Mr. Macon,) have assured this Convention, that previous to that time, and long after, they were not considered as citizens, so as to entitle them to vote. Having satisfied my mind, that previous to our Revolution, and a long time after the adoption of our Constitution, they were not permitted to vote, nor regarded as citizens, and freeman in the acceptance of the terms required by the Constitution, I would enquire, how have they since become freemen and citizens, so as to entitle them to this important privilege?—As was very properly remarked by the gentleman from Warren, (Mr. Macon,) who ever heard of a colored man being naturalized, or being called upon to take the oath of allegiance? I venture to affirm, that no such record can be produced, and no instance alluded to. If then, free negroes at these respective times, were not regarded as citizens, &c. can the State of North Carolina, make them citizens of these United States, either by any power she may derive from her own Constitution, or the exercise of those reserved rights, which the Constitution of the United States guarantees to each State? One of the expressly granted powers to Congress, is, to establish a uniform rule of naturalization; and, so long as a provision to effect this object, is in existence, I apprehend that no State can admit a class of individuals, to the rights of citizenship of these U. States, in any other way, or by any other prescribed mode; I would even go further, and say, that if they are to all intents and purposes, citizens of the State, they are citizens of the United States; and if my construction be correct, the same power, viz. our Superior Courts, which emancipates the Slave from the control and dominion of his master, makes him a citizen of the United States, inasmuch as the advocates contend that an emancipated Slave is a freeman, and has a right to vote.—This would be a virtual repeal of the exercise of, or a concurrent power with the naturalization acts of the United States, either of which, I need not say, would be unconstitutional.—What becomes of the inalienable rights of these boasted freemen and citizens, when the Legislature of our State passed an act, authorizing the Courts, upon conviction of any of them, for a petty misdemeanor and an inability on their part to pay the costs thus incurred, that they should be hired out for the same? If the same policy had been adopted, with regard to the free white citizens, is there a doubt in this Convention, but that with one voice, from the Mountains to the Seashore, the people, the judiciary, and all the powers of the government, would have declared, that the act was void, and that it was an unconstitutional deprivation of the liberties and privileges of a freeman? It cannot be disguised that there is a vast and mighty difference, between the Constitutional rights and privileges, of a free white man, and a free negro, or else the legislative construction, and acts, have done gross and vio-

lent injustice to this unfortunate class of inhabitants. It is also true, that the Convention act, by virtue of which we are authorized to amend the Constitution, in empowering us to abrogate or restrict the right of free negroes or mulattoes to vote, would seem to imply, that they were heretofore entitled to this privilege, or why abrogate and restrict, that which they had no right to enjoy? I am free to admit, that this has been regarded as a doubtful right, and that in expressing the decided opinion which I maintain, I differ from many of the most distinguished gentlemen of this Convention, but I cannot believe that clause of the act as a concession of the right to the free negroes, but as only the expression of the willingness, and anxiety of the people to have this long vexed question put to rest. I have ever entertained the opinion that they had no right to vote, and must confess, that I have heard no argument that convinces me of the incorrectness of that opinion. North Carolina is the only Southern State in the Union, that has permitted them to enjoy this privilege, and so far as my experience and observation extends, her interests have not been promoted by the concession of the privilege; & I venture to assert, that the welfare and prosperity of those States that have excluded them, have been very materially advanced, by denying to them the elective franchise. As I previously remarked, this is a nation of white people—its offices, honors, dignities, and privileges, are alone open to, and to be enjoyed by white people. I am for no amalgamation of colours. The God of nature has made this marked and distinctive difference between us, for some wise purpose, and assigned to each colour their proper and appropriate part of the globe, and I never can consent to this equality, until "the Ethiopian shall be enabled to change his color, and the Leopard his spots." Does expediency, or a sound policy require us to grant them this privilege? I am aware, that there are many of this unfortunate race, who are deserving of a better political fate than will be entailed upon them by this act of disfranchisement, and whilst I regret the necessity which compels me to include the good among the bad, I must enforce the sound political maxim, that the interest of the few, must yield to the public good. It is said that it is an act of gross injustice, and a violation of the Constitution, to disfranchise those who pay taxes, &c. and to control their property and liberties by laws, which their representatives never made! What burdens of the government do they bear, and to what amount is the public Treasury swelled by their taxes? What care, anxiety and interest do they feel in the welfare and prosperity of the government? When the laws of the land secure to them the enjoyment of personal security, personal liberty, and private property, and exempt them from many onerous duties, they are well repaid for their poor, and very inadequate support of the government. If this be truly a violation of the Constitution, it would by the same reasoning, be equally as unjust and oppressive, to exclude them from seats in the Senate and House of Commons, from the offices of Governor, Judge, &c. for by that instrument, they are entitled to vote, they are not debarred by that instrument, from the enjoyment of these high & important posts of honor and emolument.—There must be some stopping place to this latitudinarian concession of political rights, for the more you make, the greater seems to be the necessity of conceding others, and the best policy requires that you should adopt that course which will create the least dissatisfaction, and close the avenue to their ambitious hopes, and give certainty and permanency to our institutions upon this subject in all coming time. Suppose by admitting them into the political family of the State, they should increase in number so as to constitute the majority of voters, will this construction which their advocates have given to our Constitution, exclude them from all the high offices of the State, and deprive them of the sole control and management of our State government? I answer no! and the extension of the principles of their argument, satisfactorily convinces me of the danger, illegality and inexpediency of the proposed measure, and of the certainty that the Constitution never contemplated that they were embraced within the term 'freemen,' as therein contained, or that they were entitled to the political privileges appertaining to that term. The State of North Carolina is surrounded by States, that have taken away from them, all the privileges of freemen, except those of a social character. Let it be understood that we have incorporated in our Constitution, a provision, granting them certain high political rights, and given to them an equality, which is extended to them in no other State; and what will be the consequence? Our good old State will become the asylum of free negroes, they will come in crowds, from the North, South and West, and we shall be overrun by a miserable and worthless population; if we hold out inducements, to any portion of the human race, to come and settle among us, let it be to those of sober,

honest and industrious habits, and such as feel an interest in, and duly appreciate the institutions of the country.—Admit, for the sake of argument, that you extend the right of suffrage to the free negro—do you benefit him, or advance the interest of the country? Sir, you make him the corrupt tool of the designing and ambitious demagogue, and subject him to a slavery ten times more ignominious than that of the disfranchised private citizen—you increase the sources of corruption for your own citizen, without conferring any benefit on the free negro. The restriction of the right to vote, to those who shall be possessed of a freehold estate of the value of two hundred and fifty dollars, free from all incumbrances, will be either productive of great frauds, or amount to an almost total disfranchisement. I am opposed to every measure which is in conflict with my conceived notions of the construction of the old Constitution, and entertaining these opinions, as well upon the policy as the expediency of the measure, I can never consent that the voice of the free negro should weigh, or be heard in the disposition of my property and rights.—It may be urged, that this is a harsh and cruel doctrine, and unjust, and by no means reciprocal in its operation. I do not acknowledge any equality between the white man and free negro, in the enjoyment of political rights—the free negro is the citizen of necessity, and must, as long as he abides among us, submit to the laws which necessity and the peculiarity of his situation compel us to adopt. It is said that by depriving them of this right, you degrade them, and thus make them dangerous citizens. The fact proves the reverse, for in several of the Eastern counties, they are not permitted to vote, and they have acquiesced in this determination with cheerfulness and contentment—their excitement and interest, never extend beyond the temporary gratification of the enjoyments of the muster ground and election, and their patriotism is limited to the little selfish feeling of self-importance, which these occasions give them, together with the sycophancy which the demagogue evinces to them, in the shape of spirituous liquors and congratulations for the welfare of his wife and children! What know they of the great principles of government, and what interest do they feel for its welfare and prosperity? Long experience, expediency and good policy, have convinced all of our Southern sister States, that they are dangerous and useless citizens.—[Here Mr. B. read the articles from the different Constitutions of the several States on this subject.] These articles are the offspring of great political sagacity and wisdom, and although they have no binding efficacy upon us, yet we may be permitted to borrow light from proximate Constellations, and by adopting the experience of others, avoid dangers and difficulties that might otherwise occur. I differ in these opinions, from many distinguished gentlemen in this Convention, and I may be permitted to remark, that it has had the effect, to induce me to examine and scrutinize those opinions with great care, and assiduity, and all my investigations have resulted in a firmer conviction of their truth and correctness. This conclusion may work in some instances, a seeming, partial injustice, but it will produce a public good. Mr. McQueen observed, that no gentleman would be more reluctant than himself to vote for the introduction of any clause in our fundamental system of laws which would curtail the privileges, diminish the happiness or pain the sensibilities of any class of human beings on earth, no matter how humble; and that few, he believed, indulged in feelings of profounder sympathy for human woe than he did where cases of individual suffering were presented. But where public policy and public justice urged the performance of any duty upon him, he felt himself imperiously bound to stifle the remonstrances of feeling and to resign himself to the convictions of duty. He said that he was perfectly convinced that a denial of the right of suffrage to the free persons of color would operate with some degree of harshness in a few instances; for there were some of that unfortunate class who had singled themselves out from their associates by their meritorious and exemplary conduct, but that it would be an impolitic species of legislation to release the operation of a general principle for the benefit of a few individuals. He should consequently vote for a total abrogation of their right to vote. He differed entirely with his friend from Rowan (Mr. Giles) in the belief that the right of suffrage should be extended to persons of this description, for the purpose of acting as a stimulus to virtue and to merit. The blessing of freedom has been usually extended to them on the same principle, but it was never contemplated in admitting them within the circle of liberty, that they were to enjoy the benefit of a full political or social communion with the whites. The nature of our condition and the cast of public sentiment in this country, raises an impassable barrier to any such state of things as this; and if we once commence the work of holding out to them political privileges, as an in-

strument to virtue, we might as well insert some clause in the Constitution making the highest offices of the country accessible to them, and providing that they should have their special Representatives in the State and Federal Councils. Mr. McQ. said, it must be admitted by every member on that floor, that every Government is invested with the power of restricting the rights of their citizens where it is for the public benefit; that they should do so; that they should, from maxims of sound policy, withhold certain immunities from one class of citizens which are extended to another class. It has been deemed advisable, in this country, to render the Presidential Chair inaccessible to all persons of foreign birth. The Constitutions of some of the States have excluded from giving testimony in the Courts, and from being elected to office, those who disbelieve in the existence of a future state, on the ground, that such persons, having no faith in that sacred system of laws which constituted the foundation of baths, could not be relied on in the testimony which they would render; and, that they were not fit guardians of the public interest in any important office, inasmuch as they repelled a belief in that Religion which has been uniformly considered the principal conservatory of the public happiness. The Constitution of almost every State in this Confederacy, has a clause inserted in it requiring a residence of 12 months in the State, from every citizen, before he shall be entitled to a vote. This is for the purpose of his acquiring such an interest in the welfare of the community in which he resides, as will guide his vote in the different elections. No person under twenty-one years of age, in this country, is allowed to vote, no matter how highly cultivated his mind, how sound his judgment and how pure his character, on the ground that the generality of such persons do not entertain just conceptions of the public interests. No person who is not endowed with a freehold qualification of fifty acres of land, in this State, can vote for a Senator, and no person not possessed of a freehold of 800 acres is entitled to a seat in the Senate. These are all prohibitions, restrictions and exclusions which have been deemed essential to the public welfare, wherever they have been adopted. Now he asked, where is the monstrous breach of justice and humanity in excluding free mulattoes from the right of suffrage, if these restrictions on the liberty of white persons be founded in sound policy and justice? No person would deny that we might pass a law declaring that no citizen of Africa should vote in the elections of this State, though he landed on the American shore invested with the mantle of freedom—and why? Because, he contracted notions in the land of his birth, at variance with the interests of the country. If he did not relish the institutions of this country, with that restriction imposed, he might depart. If then, there would be no peculiar degree of hardship in excluding those Africans from the right of suffrage who were free when they stepped on the shore of this country, where would be the monstrous injustice of excluding those from the pale of the elective privilege whom we have released from slavery—those whom we have absolutely delivered from the burthens which they brought with them here. Now, Mr. Chairman, said Mr. Q. I put this question: Does a free negro aspire to the blessing, merely for the sake of acquiring a right to vote, or does the blessing of freedom bring along with it a pride of character which makes him aspire to this right; or, in other words, would he reject the boon of freedom, if proffered him unassociated with a right to vote? The probability is, that the right of suffrage never enters his head when he is struggling to obtain his freedom; he is willing to accept of it on almost any conditions you may dictate. Now, it is proposed to invest the free negroes with the most important privilege which is exercised by the white population of the country. Whence do they derive their title to this equality of privilege? Are they recognized by public sentiment as constituting that class of people from which the political power of this country should flow in the whole, or even in part? Is there any gentleman on this floor, who would be willing to see the right of suffrage extended to the persons of color, if they were likely to constitute a majority of voters in the State? What sad disasters would flow from such a state of things as this? Well, if we would not be willing to invest them with the right of suffrage, in case they were in a majority, it is not a sound principle to extend it to them whilst they are in a minority; for no principle is a sound one, which cannot be carried out. The public sentiment of this country does not admit them to the enjoyment of any office of honor or profit, yet, strange to tell, the law of the country permits them to have a voice in excluding white persons from office. Now, sir, said Mr. McQ. I do insist that there is a broad partition-line between the fitness of free negroes to exercise the right of suffrage, and free white persons. The negro came to this country in state of slavery, with no expecta-