

RALEIGH REGISTER.

AND NORTH-CAROLINA GAZETTE.

"OURS ARE THE PLANS OF FAIR DELIGHTFUL PEACE, UNWARD BY PARTY RAGE, TO LIVE LIKE BROTHERS"

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STATE CONVENTION.

CONTINUATION OF PROCEEDINGS.

Thursday, June 18, 1835.

The Convention being in Committee of the Whole, on the Articles reported for regulating Representation in the Senate and House of Commons, Mr. GASTON rose and said, that as no other gentleman seemed disposed at this moment to claim the attention of the Committee, he would avail himself of the opportunity to submit his views on this deeply interesting subject. Sensible as every member of this body must be of the grave and responsible character of the duty assigned to the Convention, of reforming the Constitution of the State, all must perceive that no part of their duty presented such difficulties as that of reforming the basis of representation in the General Assembly. We were now employed in altering the foundation on which our political temple had rested and settled for more than half a century; and it will not be easy, with all our skill and caution, to execute this undertaking so as not greatly to disturb the entire edifice and perhaps endanger its permanent safety. The difficulties of the undertaking were much increased by extrinsic causes. Under the Constitution, as it is, every County in the State, without distinction as to population or wealth, has the same number of members in the Legislature. The Convention has been called into being by the votes of the freemen of the State, but it was constituted upon this principle of equal power in the counties. A majority of the people had willed the Convention, but a majority of the counties was decidedly opposed to it. The delegates, said Mr. G. were chosen immediately after the decision of the people was made, and it cannot be doubted but that they bring into the Convention the opinions, feelings, interests and prejudices entertained and felt by their respective constituents. A large portion, a majority of them probably, have come with a strong dislike of the duty enjoined upon them, and under a settled apprehension, that evil and not good will be the result of its performance. Obligations, not to be resisted without guilt, may compel them to execute the allotted task, but it is impossible for them to do it otherwise than grudgingly. Nor is this the only, nor perhaps the greatest difficulty. If it is notorious that the State has long been distracted by bitter sectional parties. It is unnecessary to enter into a detailed history of the origin and progress of these parties, but it may help us in making peace between them, briefly to advert to the causes which brought them into being and stimulated them to rancor. The first settlements of North-Carolina were made on the seaboard, where counties were from time to time laid off of such convenient size as was demanded by local causes. As the population swelled, its tide flowed up into the interior to and even beyond the mountains. It became necessary to form additional counties, which were of course much more extensive than those to the East because of the sparseness of their population. At the time of our Revolution, when the existing Constitution was formed, the State was found distributed into counties small towards the seaboard and large towards the West, but with no very marked inequality in the numbers which they respectively contained. In the Constitution the counties were regarded as equal, and to the inhabitants of each was given the power to elect one member to the Senate & two to the House of Commons of the General Assembly. The large counties soon became more populous, and for a time there was no difficulty with the Legislature in dividing them into counties of smaller and more compact size when the number and convenience of their citizens required it; nor was the Legislature importuned by petitions for this purpose except when a reasonable cause existed for the application. But by the Constitution no seat of Government was established. The Legislature held its session every year at such place as the Legislature of the previous year appointed by Resolution. It moved from time to time, and the place of its sitting became a question on which the greatest excitement was felt. The members from the counties embracing or contiguous to the towns which were solicited to get the benefits of a Legislative session, exerted themselves with zeal in supporting their respective pretensions.

This zeal was communicated to the members from the adjoining counties—many local parties were thus created and these finally settled down into two, an Eastern and a Western party; the one for meeting on the seaboard, the other for meeting in the interior. It is immaterial for what purpose combinations of men are formed. Once formed, men accustomed to act together on one subject will combine for others also. This array of parties against each other affected all the operations of the Legislature, and was felt in the appointments to office, and in very many even of the public laws. To terminate it, as it was fondly hoped forever, a Resolution was passed recommending to the Convention of the People about to be called to deliberate on the Federal Constitution, to fix the permanent seat of Government for the State. After severe contentions and by a very small majority, the spot on which this City has been since built was selected for the purpose. Complaints of management, intrigue and bargaining were preferred against the majority by the unsuccessful party—years passed by before the necessary laws could be enacted for carrying into execution the judgment of the Convention—and after they were passed, fears were expressed & indications occasionally made of a purpose by another Convention to change the seat of Government. It is not wonderful that under these circumstances, a mathematical or ideal line running through the State a little to the West of this City was regarded as dividing it into two sections with dissimilar interests, opposite purposes and almost hostile feelings. The most unfounded suspicions and jealousies were entertained on both sides. Who does not know that when any class of men is opposed by others as a class, whether it be a sect in religion or a party in politics, the vilest slanders and the most stupid falsehoods are mutually circulated and accredited? Who that has long been engaged in public life, and calmly reviews his course, does not feel remorse for the injustice which he has done to the motives of his adversaries? If under any circumstances the West applied for the admission of a new county or for the division of an old one, the East had no question but that the sole motive was a solicitude for more power. The West not having their fair share of power, were anxious to increase it in the only way by which, under the Constitution, it could be augmented, and sometimes pressed for the creation of counties when the wants of their people did not peremptorily require it. But right or wrong, necessary or unnecessary, it became a maxim in party politics that no new county should be made in the West unless it could be balanced by a new county also in the East. With a great superiority of numbers on their side, the West—the decided majority of the people—were thus controlled and kept down in this party warfare by a minority of the people in the East. It could not but happen, as it has happened, that this majority should become deeply dissatisfied with the political institutions of their country and vehemently demand such a change in them as would correct this artificial inferiority. Nor could it well be otherwise, that those who had so long struggled with success by means of these very institutions, against this majority, should feel an almost panic fear at being called on to surrender the sceptre of power, barren and profitless as it had been. True it is, that the original causes of difference have disappeared. The permanent seat of Government is unquestionably fixed, and there is probably not a man in the State who entertains a wish or an apprehension that it will ever be disturbed. But the fears and mistrusts and suspicions thus engendered and long entertained—cannot be immediately banished. When he who gave to the sea his decree that the waters thereof should not pass his commandment, bids it "be still," it quails at his voice and instantly sinks into a repose as profound as the slumber of a hushed infant. But ordinarily, the agitations of human passion, like the billows of the ocean, continue to swell and rage long after the storm has subsided which lashed them into fury. We know not each other as we ought, and we meet not here with the dispositions which we should have. Children of the same common country, having in truth but one and the same interest, and alike desiring only what is right, we ought to meet as members of the same family consulting for the good of all. But is there not reason to fear, that too many of us here, come rather as negotiators for conflicting parties, charged with the duty of upholding their respective pretensions and of resisting to the utmost those which may be advanced on the other side?

The most perplexing difficulties do then attend the task of satisfactorily adjusting this vexed question. But the path of duty is always obstructed by obstacles, and he who because of them, shrinks from the performance of what he owes either to his God, his fellowmen, or himself adds cowardice to guilt. The difficulties are such as to call for the exercise of wisdom, moderation, justice, candor, and firmness—as should nerve us for high efforts, intellectual and moral, and keep

down as far as the frailty of our imperfect nature will permit, every prejudice, passion and unworthy influence. But they are not insuperable. They can be overcome—they ought to be overcome—and we shall fail, miserably fail, in what our country demands and our consciences enjoin, if we do not overcome them. An omission to settle this question now, in such a manner as to tranquilize the public mind, he should regard as no ordinary calamity. He did not anticipate indeed, in that event, the result predicted by the distinguished gentleman from Buncombe, (Governor Swain) a gentleman for whom he took pleasure in testifying the highest affection and respect. That gentleman, not in the language of menace, for he was perfectly sure no menace was intended, but in earnest language had predicted, that if a satisfactory arrangement were not now made, the strong man in his unshorn might and pull down the entire political edifice. Sir, said Mr. G., the strong man of Zorah, the son of Manoah, was brought from his prison-house into the Temple of Dagon to do honor to the impious feast and to make sport for the enemies of his country. Bowing down with all his might, he tugged and shook the massy pillars which upheld the ponderous roof till he buried all beneath one hideous ruin. It was a glorious deed. He fell a martyr and a hero "victorious among the slain." But should our brethren of the West, in a moment of excited passion because of deferred hope or blasted expectation, violently upturn and overthrow the existing Constitution, the mad triumph will be a triumph over order and law, over themselves and their friends and their country. This, surely would be their very last resort, their *ultima ratio*, which no, thing but hopeless oppression could excuse, and which they will never adopt while other means of redress are attainable. It is impossible to deny that they have cause of complaint. It is impossible to insist that on any principle of free government, the present distribution of political power can be longer upheld. They have urged their complaints almost as one man, and have assented to terms of adjustment, moderate and reasonable, the rejection of which now must exasperate resentment, and raise yet higher their demands. No government on earth can be long insensible to the rooted dissatisfaction of a large number, and still less of a majority of its citizens. The despot sometimes, and often to his own destruction, attempts to keep it down by the bowstring or the sword: but in a moral and free government it must be allayed, and it can be allayed only by concession.

We are not only urged to complete the proposed adjustment by every consideration of patriotism, but are bound by the obligation of a solemn oath. It seems strange that there can be a difference of opinion in construing the explicit injunctions of the Act which was ratified by the People, and which called this body into being. Some gentlemen are disposed to think, that in calling this Convention, the People have done no more than to say to us, you shall consider certain proposed amendments to the Constitution, and you may consider others. Sir, they have done a great deal more. The first part of this act, provides a mode for ascertaining whether it be the will of the people that a Convention shall be called for amending the Constitution in the particulars specified; and the next directs how the Convention shall be called and constituted, in the event that the majority of the People shall have demanded one. The act then declares that no delegate shall take his seat in Convention, until he shall have solemnly sworn that he will not directly or indirectly evade or disregard the duties enjoined or the limits fixed to the Convention. What are the duties which he is thus bound to execute, and the limits which he is forbidden to transcend? The 13th section declares that in voting for a Convention, the People shall be understood as having pronounced their will that the Convention shall frame and devise amendments by which the members of the Senate shall be reduced to a number not less than 54, nor more than 50, to be elected by districts and according to the ratio of taxation, and shall frame an amendment whereby to reduce the members of the House of Commons, to not less than 90 nor more than 120, to be elected by counties or districts or both, according to federal numbers. If the People command this to be done by the Convention, is it not the duty of the Convention to obey this command, and of course the duty of each delegate, honestly and in earnest to contribute his exertions to the fulfillment of this command? Should he act otherwise, does he not evade and disregard the duties enjoined on him? This section then proceeds to point out several other proposed amendments, which the Convention, may or may not, at its discretion, make in the Constitution. The 14th section designates the limits which the Convention is forbidden to transcend, and which, therefore, no member is to evade or disregard. The limits might perhaps have been fairly collected from other parts of the act, but for great

certainty, are in this section expressly set forth. It declares that the People regarded as having conferred on the Convention a power to make amendments in any of them, but in no others. The power extends to all and to each of the amendments proposed—the duty is enjoined as to some—discretion allowed as to others. The oath commands the performance of the duty as explicitly as it forbids the we must do.—Some things we may do. There are others which we cannot do. We swear to do what is commanded, and to abstain from what is forbidden. But while gentlemen have admitted that there was an imperative obligation on them to carry out into execution the command of the People, as to the reform of representation, they have at the same time protested strongly against the principles upon which the reform is based—the principles of compromise as they are termed, between the Eastern and Western claims. As a friend to peace, he greatly regretted that they should have indulged in such a course. It led to the re-opening of the fountains of strife which it was the purpose of the Convention act to bury forever. This was not its only mischief. However, sincere these gentlemen might be in their determination to obey the command of the People, nothing better calculated to weaken this resolve than to find fault with the command. He who enters upon a prescribed task with a strong repugnance to it, seldom performs it faithfully, and nothing more effectually increases this repugnance than dwelling upon the objections which can be made against the undertaking. Although, therefore, the duty imposed on us is the same, whether the terms of compromise be equal or unequal, yet it may not be immaterial as regards the zeal with which the duty should be performed to shew that in truth, the terms are fair and equitable.

A captious criticism may perhaps censure some details of the plan of representation, but it appeared to him difficult to find fault with the great principles on which it was based. There were taxation as the ratio of Representation in the Senate, and federal numbers as the ratio of Representation in the other house. The gentleman from Greene, (General Spaight) had objected to the first as not giving its due weight to the East, and had objected to the second as not giving its due weight to the West. This really seemed to be in the very spirit of fault-finding, for even were it well founded, unless the supposed wrongs were unequal, they counterbalanced each other and left the arrangement fair. If equal weights be taken out, or put into opposite scales of the same balance, the equilibrium is not disturbed at all.—As there is then no unfairness shown of a sectional character, let us see if there be any departure in it from the principles of free government.

The necessity of two houses of legislation, as checks upon the haste, improvidence, sudden impulse, and intemperate excitement of either, is so universally admitted, that it may be regarded as a political axiom. In the constitution of these two houses, it is desirable that they should in truth operate as checks—that they should not be liable to feel at the same moment that impulse or excitement which leads to haste and improvidence. In the federal Constitution, one branch of the Legislature is chosen by the respective States, as co-ordinate members of the Union—and the other branch is chosen by the People in the different States according to population. The propriety of this arrangement arises from the peculiar nature of that Constitution, which binds together, as well the States as the People of America. It is to many purposes a confederacy of the States, and to all others, it is a government operating directly upon the citizens of the United States. To keep up the balance between its federative and national character, the Senate is framed as fitted to protect the former, and the House of Representatives, constituted so as to secure the latter. To every law the concurrent action of these bodies is indispensable—and thus the two great principles of the Constitution are upheld, as checks upon each other. In the Constitution of a State, all the operations of whose government are not only direct upon its citizens, but wholly confined to matters of interior concern, the only interests likely to be often arrayed against each other, are those of property and of persons. Such a government is formed for the purpose of protecting property and persons, and would be inadequate to its end, if left either at the mercy of the other. It can never indeed, be the true interest of any individual, or of any body of men, to oppress or to injure others; but every day's observation, and it is to be feared, that every day's experience, must convince us, that a fancied immediate advantage, magnified by the mists of passion, often tempts us to forego our permanent good, and wrong our fellow men, under the delusion that we are benefiting ourselves. It is right that government should be so constituted as to bring the steady influence of interest in aid of the commands of duty. The

Senate in our Legislature, is intended especially, to represent and protect property. He had heard it objected to the constitution of this body, that a poor man was often as estimable as a rich man, and that it was a departure from Republican principles, to allow the latter to vote for a Senator and not to permit the former to vote also. It should be borne in mind, that governments are formed for practical purposes, and not to present themes for the exercise of schoolmen and declaimers. The poor man may be personally, far more meritorious than the man of property. Personal merit depends on intelligence, integrity, firmness, and temperance. He who wears a tow shirt, or no shirt at all, may, in all that respects personal merit, be infinitely superior to the profligate rich man, or the narrow hearted and unfeeling miser. Nothing can be more true than the sentiment of our great didactic Poet, that "Worth makes the man; want of it the fellow; 'The rest is all but Leather or Prunella."

It is not because of his personal desert, that the privilege of voting for a Senator has been secured to the Freeholder, but that the rights and interests of Freeholders, as such, should not be invaded and broken down. The most exciting principle of action in civilized society, is the desire of gain.—Regulated, it is the great stimulus to industry, order and temperance—unchecked, it leads to plunder, violence and outrage. It is at once encouraged and regulated, by securing to every one the fruits of his own industry, and of the industry of those whose acquisitions have been transmitted to him. It is idle to call this principle, as it operates in our country, an aristocratic principle. From the ease with which property is acquired, and the rapidity with which it is spent, there are here no permanent orders of rich and poor. The poor of yesterday, are generally the rich of to-day, and the rich of this day, will probably be classed among the poor to-morrow. If these changes should not happen among those who now do or do not hold property, it is very certain that they will take place among their children. The Senate, therefore represents the interests which spring from the possession of property, and the rule for its apportionment, as laid down in the Convention act, that is, the ratio of taxation, seems to be particularly suited to the constitution of such a body. The principle which the gentleman from Greene (Gen. Spaight) proposes, that of equal representation by counties, is supported by no reasons whatever—is upheld by nothing but existing usage—stands condemned by the People, and has had its day.

Taxation is not indeed an unerring criterion of property, but it is one of the best which can be adopted in practice.—The Legislature have unquestionably endeavored, and always will endeavor to make the contributions of the citizens proportioned to their ability, and we may therefore reasonably assume the amount contributed in each section of the State, as indicative of the amount of property enjoyed in it. Nor could he see the force of reasoning, by which the land tax alone, or the land and slave tax, or any other specified tax, should be taken as the criterion of property. The gentleman from Greene, had especially objected that the tax raised from billiard tables was included in the aggregate amount of the revenue according to which representation was apportioned. If the gentleman meant only to declare his opinion that these tables should be suppressed, and not made the subjects of taxation, he cordially concurred with him. He thought that other and much more fit subjects of revenue than vice and idleness might be found—but the objection to the amount of the revenue thus collected being considered in the taxation of the counties, seemed to him rather overstrained. In the first place, it could not be complained of as unjust to the East, as the tax according to our returns, was collected there only; and, in the last place, though a tax on vice and dissipation, it still indicated an ability to pay.

But there are peculiar reasons why taxation should be made the basis of representation in one branch at least of the Legislature. Alarm is expressed, and no doubt is honestly felt, by a portion of the intelligent and reflecting community near the sea-board, lest the West, on getting the ascendancy, might be tempted to embark in wild schemes of Internal Improvements. He verily believed these fears were extravagant. He believed that the best interests of the country called aloud for some energetic plan by which the hidden resources of our country might be brought to light and its sleeping energies roused into action. He felt a strong conviction, that the cautious habits of this people afforded a reasonable security that wild and expensive schemes would not be speedily adopted, whether the balance of power remained in the East, or should be divided between the East and West. The great danger was of continued inaction, and not of rash enterprise. But it was fair and reasonable to reserve a check upon improvidence, in case this lethargy should be thrown off and the State determined to improve its physical condition.

This reasonable check would be found in requiring for every plan the sanction of a House which represented the tax-payers of the State. The tax-payers would then be also the revenue disbursers. It was unsafe, that one set of men should contribute the public funds, and another set direct its distribution. Taxation and representation should go hand in hand.

There is no individual acquainted with the administration of the financial laws of our State, who will not admit that it demands correction. In vain have these laws endeavored to make taxes equal, while those who administer the laws have an interest in rendering them unequal. It is known, that no uniform rule prevails throughout the country in assessing the value of lands, and each county seems to strive with its neighbor in bringing down the assessment, so as to lessen its share of contribution to the public necessities. The Sheriffs in the respective counties have also temptations to overlook subjects of taxation, and facilities in withholding what is actually received for taxes. It is not unusual to see the contribution of a county to the public revenue vary fifty per cent, when a change is made from an incapable or careless Sheriff to an officer of a different character. These matters certainly require Legislative remedies; but it is among the advantages which will result from adopting taxation as the ratio of representation, that it will inspire the people and the magistrates of every county with an animated interest in the fair assessment, collection and payment of the taxes of their county. Integrity, will be strengthened, when it is thus rewarded. The avarice which now tempts to the withholding of the public dues, will be counteracted by the desire of political weight. Laws are always most faithfully executed, when the public feeling goes along with them.

Satisfied then, that the basis of representation in the Senate is in itself reasonable, and not subject to the reproach of being unjust to the East, let us see whether that laid down for the other House has not been improperly arranged as unjust to the West. The only objection he had heard, was, that it adopted the principle of federal numbers, whereas it ought to have been based exclusively on free population. He knew that the latter principle had been heretofore claimed by the advocates of the West, and he hailed as indicative of more equitable and moderate counsels their acquiescence in the former principle. It may not be amiss to pause awhile and consider the reasons which justify this acquiescence.

The argument in favor of founding the representation in the House of Commons on the basis of free population, had been announced in the form of a syllogism.—The Senate represents property, but the House of Commons represents persons. Slaves are not persons—therefore slaves ought not to be considered in apportioning the members of the House of Commons. Arguments are not always sound because they are put into approved form. The Senate indeed does in the main represent property, but it does not exclusively represent property. Taxation is the ratio of representation there—but taxation does not arise wholly from property. A portion of the tax of every county is a poll-tax upon the free males—and so far as this tax enters into the estimate, persons as well as property affect the ratio of representation there. But in what sense can it be said that slaves are not persons? So invaluable is the blessing of liberty, that it is difficult to institute any comparison between him who enjoys it and him who has it not. But vast as is the difference between a free man and a slave, it is not equal to the infinite distance which the God of Nature has placed, between a rational being and a brute. Slaves are human beings. As such they are subject to the law, regarded as having a will which they may abuse to wicked purposes, and made responsible for offences against society.—Why undertake to try a slave more than a horse—why under the solemnity of oaths investigate his guilt? Why if he kills a man do you not at once put him to death as you would an ox who had gored your child? Why, but because he is a human being, because he is a person? As a human being, his life is protected against the violence of his own master, and his person protected against the violence of all. Although a slave is an article of property, he is nevertheless a member of society—and like other members of society constitutes a part of its strength or of its weakness. Political necessity will not permit him to exercise the elective franchise, but in apportioning representatives to population he cannot be overlooked, for he is a part of the population. Slaves constitute an anomalous class, having the mixed character of persons and of property. As such they are viewed in the Constitution of the United States, and the rule of representation now proposed is called the Federal Rule because it prevails there.—After much controversy, it was finally arranged that in apportioning representation under that Constitution three-fifths of the slaves should be added to the number of the free citizens of each State.—North-Carolina with all the Southern States strenuously contended for this rule, and surely it is now too late for her to