

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.

Mr. GASTON'S SPEECH—Continued.

If the dissatisfaction caused by unequal representation be so extensive and so well founded, as indispensably to require the correction of this evil; if the duty of reform has been enjoined upon us by the People, and we have solemnly sworn not to evade its performance; and if we find the principles of the proposed adjustment fair and equitable, we ought not to hesitate to carry out these principles into full execution. The organic Act under which we are assembled commands that the number of the Senate should not be less than thirty-four nor more than fifty—and that of the House of Commons not less than ninety nor more than one hundred and twenty. We have already decided by an almost unanimous voice to support the recommendation of the Committee so far as it advises that the Senate shall consist of fifty, but their recommendation that the other House shall consist of one hundred and twenty, is violently opposed. Upon the best consideration he did think, and therefore was obliged to say, that this opposition was unreasonable. The people had fixed a maximum and a minimum for each House—fifty, and thirty-four, for the House which represents property—one hundred and twenty, and ninety, for the House which represents population. It was impossible not to admit that the maximum and minimum in the two Houses must have been selected upon the belief that they severally stand in a proper relation to each other. So far as the will of the people is declared in this adjustment, obedience is our duty. Where it is not explicitly declared, but may nevertheless be satisfactorily collected, we should endeavor faithfully to follow it out. We have resolved to take the maximum for the Senate—Can we do otherwise than adopt the maximum also for the House of Commons, without violating the spirit of the adjustment? What reason can be assigned for disregarding the proportion which is so plainly marked out in the act? It had been objected, that the proportion was different from that which now obtained in the two branches of our Legislature, for that they stand to each other in the relation of one to two. But if the people have indicated that a different proportion should prevail—if they have said that the Senate might be reduced to thirty-four, but if so the House of Commons should consist of at least ninety—that the former House might extend to one hundred and twenty, but if so, the former should nevertheless not exceed fifty; are we, whose province it is to execute this plan, to sit in judgment upon it and practically to disregard it? He admitted that it was in our power, under the words of the act, to pay no attention to the proportions set forth in it—to adopt the maximum for the Senate and the minimum for the House of Commons. But were we to do so, we felt a full conviction that we should but keep the word of promise to the ear and break it to the sense. With this conviction, it was unnecessary for him to point out any reason why the relative proportions as they now exist between the two Houses, had been to some extent departed from in the plan of adjustment recommended by the People. But there occurred to him one so plain and irresistible that he could not forbear from mentioning it. The Senate representing property, was constituted on the principle of taxation—and this principle was carried out thoroughly and without exception. But the principle of numbers on which the House of Commons was based, was not carried out thoroughly. It was subjected to an exception very proper in itself, but which practically narrowed the range of its operation. To prevent too violent a shock to long continued usages the act provided that every county in the State, whatever might be its population, should have at least one member. He repeated that this was a very proper provision, and one without which he never could have yielded a cheerful assent to the proposed arrangement; but it was a provision which in practice greatly affected the basis of representation. There were sixty-five counties in the State—each of which, without regard to its numbers must have a member. If the House of Commons then consisted of sixty-five members only, the exception would destroy the rule altogether, and each county would be equally represented. Thus it will be seen that the practical operation of the rule is not upon the whole

number of members in that House, but only on the excess of that number over sixty-five. Make the number ninety, and the principle will be felt only in the apportionment of twenty-five. Make it as proposed, one hundred and twenty, and it is felt but in the apportionment of fifty-five—and this is but five more than the entire number of your Senate. Where then is the ground for this clamor?

But it is urged that the number one hundred will give the East for the present a greater relative strength than the number one hundred and twenty. This may be a conclusive argument (supposing it to be founded in fact) with those who came here not with the purpose of allaying the strife which has distracted our land, but in order to assist to the full extent of their power, whatever may affect the present state of things. He had not himself examined so as to be able to pronounce confidently as to the result of the calculations which were made. He believed however that at the number 100, the proportion in the House of Commons would stand, considering Robeson and Person as Western counties, 47 to 53—considering them as neutral, 47 to 51—as Eastern, 49 to 50—and that at the number 120, the proportion would be, considering Robeson and Person as Western counties, 55 to 65—as neutral, 55 to 61—and as Eastern 59 to 61. In both cases there would be a small majority on the side of the West, which could not be varied more than four by adopting either of the proposed numbers. It did seem to him any thing but wisdom to consider this difference as furnishing a justification to gentlemen from the East for the prodigious alarm they had sounded, much less for a departure from the spirit of the rule of adjustment enjoined upon the Convention. In the Senate, as fixed at 50, there is a clear majority of at least four and probably six members on the part of the East—and no act of legislation can be passed but by the concurrent will of both Houses. Joint action never takes place but in making appointments to office—and nothing can more clearly show that appointments are not governed merely by sectional feelings, than the fact that with an undisputed majority on the part of the East, more than half of the prominent appointments made by the Legislature are actually filled by Western men. The fact is, that when appointments take place, the disturbing causes which agitate the Legislature usually arise from party politics—from Federal and not State divisions; and these, in consequence of the prevailing influence of the General Government, are to be found East as well as West of Raleigh.

But is it possible that in our deliberations upon this subject, we should be governed by the paltry considerations of temporary advantage? The arrangement now to be made is for perpetuity, for us and our posterity—never to be altered unless the people should again agree, and he trusted they would not for a century, to change their Constitution. Make it right, so that it may last. Make it right, for the effect of it will be to obliterate those very sectional divisions which have heretofore prevailed. When the representation in both Houses shall be based upon approved principles, it will be impossible much longer to keep up these divisions. There will be nothing for East and West to differ about as East & West. Other parties—other divisions may arise, but the existing differences must ultimately vanish with the causes which created them. Make it right, for whatever may be its immediate operation, it baffles all skill at calculation to foretell what will be its effect a few years hence. Wealth will change. Numbers will change. The character of the population will change. Towards the West there are comparatively few slaves, but as their mining operations shall advance and their manufactures shall be extended, slaves will be multiplied in that region, for it was a law of Nature that men would not work when they could get others to work for them. It should be borne in mind too, that there is a large territory within the limits of the State occupied by the Cherokees, to which the Indian title must be extinguished within a year or two. When this territory shall be given up to us it will sustain a population sufficient for several counties, and as the number of our Legislature which we now establish is not to change, it should be made large enough to be accommodated to the then increased numbers of our people.

He saw then no cause to disapprove of any part of the Report presented by the Committee of twenty-six. There were, however, some matters intimately connected with the subject matter of that Report, in regard to which it was silent—but which must be settled by the Convention. The Act to which he had so frequently referred, provided that no county should be divided in the formation of a Senatorial district—but with respect to the apportionment of the members of the House of Commons, it gave the Convention a more unlimited power. It directed that with respect to these members (except those from the towns which were to be excluded in whole or in part from the Convention) they should be apportioned upon the rule of federal numbers. To be elected by counties or districts, or both.

This part of the act had given him great difficulty, and although he was by no means confident that he had ultimately adopted the proper construction of it, he was desirous to submit that construction for the deliberate examination of the Convention. An exact apportionment according to numbers could be made in one way only—by dividing the whole State into election districts containing equal population, without regard to the separate existence of counties or to the habitudes arising from them which had so long bound their citizens together. This would be such a violent disruption of ancient ties—such an inroad upon the usages of the country from its first settlement—that he could not believe that it was contemplated. If however he entertained any doubts upon this point, they were repelled by the provision which followed, "but each county shall have at least one member in the House of Commons, although it may not contain the requisite ratio of population." Such a provision never would have been made if the whole State were designed to be broken up into equal districts. An election by counties or by districts, or by both, is placed at your discretion, and the basis of representation is federal numbers. An apportionment by counties, or by districts, other than that which we have seen could not have been contemplated, must leave large fractions. Not one county can be found which has precisely the ratio, or twice or three times the ratio of representation. The enquiry is, what must be done with these excesses? They cannot be disregarded—for they form in the aggregate a large part of the population of the State—and no disposition can be made of them by counties, or by districts, or by both, which shall be in precise conformity with the prescribed basis of representation. The Legislature and the People could not intend to prescribe to the Convention an impracticable duty. He therefore interpreted the act as laying down the rule of federal numbers as the general principle for their action, giving them a discretion to apply it to counties, or districts, or both, as should appear to them most equitable and most conducive to the public weal. But two plans have been suggested. The one was to assign to each County the number of members to which it was entitled, according to the ratio of representation, disregarding its excess—and then to constitute districts of the counties having excesses, and assign to these the additional members, in the election of which the citizens of all these counties should vote. For instance, suppose the ratio of representation to be fixed at 6,500, the county of Orange having a federal population of 20,938, will be entitled to three members, and then have an unrepresented fraction of 1,458; and the county of Caswell, containing 12,611, will be entitled to one member, and have an unrepresented excess of 6,111.—These excesses added together, amounting to more than the ratio of representation, the two counties might then be formed into a district, which district should elect an additional member. The more objectionable it would appear, instead of carrying out to its fair, practical extent, the principle of apportioning representation to numbers, it perverted and violated the principle. The unrepresented fraction of Caswell was 6,111—that of Orange, but 1,458—and to represent these combined fractions, Orange having already three members, was to vote with Caswell having but one for the member to the district. Now, as Orange had more than three times the number of voters of Caswell, she could certainly control this election, and thus secure to her fraction of 1,458, a representation, while the 6,111 of Caswell, would in truth have none. The relative proportions of Orange and Caswell, as to federal numbers, are as one and two-thirds to one—and the proportions of their representations would then be as four to one. This would be apportioning representation to numbers in a very singular way. The plan was objectionable also, because of its complexity. There would be distinct sets of members in the House, some representing particular counties, and others representing these same counties in combination with others—different orders in truth, reaching one above the other in the scale of importance. Besides in many cases, in order to save a great number of small fractions there must be occasionally half a dozen counties put together, and this, in elections to the General Assembly, appeared to him a mockery of the true principle of representation. There may be extraordinary cases, in which the people can vote in large masses with some degree of intelligence. These are, when the magnitude of the trust sought brings to their notice, men whose fame is wide-spread, and broadly established. But in general, the true principle of the elective franchise is, to afford to the constituents an opportunity of selecting an agent whom they personally know, and whom, from that knowledge, they are willing to trust.

Deeming then this plan inadmissible, there was but one other which could be adopted. This was to give the additional members to the counties respectively,

which had the largest excesses of unrepresented population. Absolute precision in apportioning representation to numbers, was unattainable—this plan approached it as nearly as was practicable, and the rule laid down was intended for practical purposes. Although he had come to this conclusion from an examination of the Convention act, unaided by any extrinsic help, he was gratified to discover, that in the Constitutions of several of the States, in which numbers are made the basis of representation, a similar mode of representing the fractions had obtained.—The same principle with respect to the representation of the excesses, somewhat modified in its application, will be found in the Constitutions of Mississippi and Alabama.

He had heard with great respect, the suggestion of the gentleman from Rowan, (Mr. Fisher,) that the benefit of the fractions should be given to small rather than to large Counties, and wished to follow it so far as the rule prescribed by the Convention act would permit. A county entitled to three members, with an unrepresented surplus of population, sustains a much smaller loss in proportion, than a county entitled to one member, and having also an excess not represented. But the act did not leave the Convention at liberty to dispose of these excesses at pleasure. It declared that the members should be allotted to counties according to their respective numbers; and he felt himself bound to apply this rule throughout, whatever might be the relative numbers of the several counties. But there was an arrangement which he thought the Convention could rightfully make, and which would have the happiest effect in correcting the artificial inequality resulting from application of the rule to the larger counties, and would be attended by many other salutary consequences. He was solicitous to bring this to the notice of the Convention at this early day, so that if there were well founded objections to it, they might be stated, and deliberately considered. The members of the House of Commons were to be elected by Counties or Districts, or both, according to their federal population. For the reasons already stated, he preferred, that the election should in general be by counties, but in regard to the counties which would acquire, under the amended Constitution, a greater number of members than they had heretofore been entitled to, he was disposed to adopt the principle of election in them, by districts. Such an arrangement would have a happy effect in partially reconciling the citizens of those counties which were deprived of all but one member, to a privation which could not but be unpleasant to them. The gain of the large counties was at their expense. If these large counties were districted and the inhabitants of each district voted for a single member, the same number of the People, in the large and in the small counties, would exercise the same privilege and wield the same power, while the inequality of representation between the different sections of the State would be corrected. To remove discontent this Convention had been called. Its purposes could not be effected without giving more or less of dissatisfaction to those counties whose power was to be curtailed. But unquestionably it was sound policy to introduce as little discontent into the new system, as was consistent with the objects which it was our duty to accomplish. He was perfectly convinced too, that there was no mode of election so fair, or so well calculated to introduce into the Legislative body intelligent and upright members, as that by which the voters were brought to designate the very individual whom they preferred to all others. Where there are large election districts and the People in mass vote for many representatives, there are abundant opportunities presented for combination, management, and intrigue, among the candidates, and thus causing a real minority to pass for a majority of the Electors. It was desirable always, that the Electors should, if possible, vote upon personal knowledge. In an extensive district they could not well do so, unless the candidates travelled to and fro and subjected themselves to the observation of the People and mingled familiarly with them in every part of it. But the necessity of such a course would often prevent the best men from making a tender of their services. If the choice were to be made by the immediate neighborhood, they could confidently rely for success on the intimate knowledge which their neighbors had of their qualifications. But they could not abandon their regular occupations without a sacrifice of domestic duties, nor take up the profession of canvassers for public favor, without a sacrifice of feeling and of conscience. The field must be abandoned to what he verily believed to be the most mischievous of human beings—politicians by trade—who thrive and prosper by flattery and trick and falsehood—by pandering to the worst passions and prejudices of poor human nature—and who, under the pretence of ardent love for the People, care for nothing, and seek for nothing, but their own advancement. Those large electoral districts, independently of the objec-

tions already mentioned, were calculated to stifle, rather than to give a correct expression of the will of the People. A bare majority might elect a ticket of four members who would misrepresent the views and opinions and wishes of as many individuals as in other counties would be entitled to two members. There is such a thing as county oppression as well as State oppression or Federal oppression, and he knew no remedy for it so efficacious as to afford to the oppressed, an opportunity to raise their voice, and represent their grievances to the body that could give redress. He did not propose to introduce this subdivision of districts into those counties, which under the new arrangement would elect but two members, and for obvious reasons. There was less danger of unfairness, of combination, of driving men of merit from the field of competition, of suppression of the public sentiment, in these, than in larger counties; and above all, these counties gained nothing by the new arrangement, and it seemed to him unwise, unnecessarily to disturb their existing institutions. But the counties which were to gain by the change, could not complain if they acquired this gain with such modifications as in no degree impaired their just portion of power, and at the same time rendered it less obnoxious to the rest of the community, and more consistent with the interests of the People of the whole State.

These were the general views which he entertained on the main subject referred to the Convention, the reform of Representation in the two Houses of the General Assembly. This was the subject on which the voice of the people was imperative, and the action of the Convention indispensable. Until this subject was settled, it was idle to consider of the discretionary amendments. Unless this were so settled as to command the approbation of the people, nothing could be done for the public good. Professors were but of little worth, and men were often most prodigal in the use of professions who least felt the sentiments to which they gave utterance. But he must be permitted to say, that there was no individual in this body who felt a more ardent and intense desire than himself, that our deliberations and exertions here might attract to us the blessing pronounced upon the peace-makers—a more ardent and intense desire that after meriting this benediction we might proceed to the consideration of the other subjects submitted to us with purity of purpose, elevated views and cautious wisdom—a more ardent and intense desire that the result of our labors might ultimately tend to the physical, intellectual and moral improvement of North-Carolina.

Some gentlemen had pronounced animated eulogiums upon the State, while others had mourned over its depressed condition. There was much in North-Carolina to respect and to love. In no land was justice administered with greater purity, and in no State of the Union was there less of the violence and malevolence and corruption of faction. In none was there a more orderly and kind and well disposed population. In none more republican simplicity and equality of condition. It was emphatically the Southern land of steady habits. But he loved his country too sincerely to permit him to shut his eyes upon her defects or her wants. He wished to serve, and disdained to flatter her. The laws of Nature forbid North-Carolina from attaining great commercial eminence or rivaling in wealth some of the other States of the Confederacy. But it was impossible not to regret that her resources remained as yet almost undeveloped. Who could see without pain, the continued drain of emigration which was carrying away to more favored regions her most enterprising and industrious citizens? Her signs were the reverse of those which were seen near the habitation of the Loon, in the fable. The tracks all proceeded from—there were none coming to the State. Who but must wish that her disconnected fragments were brought together by those facilities of communication which might make them feel and act as one people in interest and affection? Much, very much might be done for the improvement of her physical condition. But there was another point of view in which he most earnestly desired the improvement of the State. If the only sure foundation of rational liberty be the virtue of the people, the best safeguard of that liberty is to be found in their intelligence. This alone can secure it against the wicked arts of oligarchs and demagogues. Not a little had been lately done in the cause of education, and he hailed with delight the institutions which were springing up in various parts of the country for the instruction of youth. But no efficient plans had yet been adopted for diffusing information throughout the land, and bringing it home to the poor and the humble. Many a spark of genius is now suffered to become extinct which might be kindled into a bright and glorious flame. Many an intellectual gem of purest ray is permitted to remain buried in the caverns of obscurity and indigence. If righteousness exalteth a nation, moral and religious culture should sustain and cherish it.

It was vain to hope that what ought to be done for the physical or intellectual and moral advancement of the State could ever be accomplished without the united efforts of the good and the wise—without liberal councils and systematic co-operation. Many an anxious, many a painful hour had he spent in reflecting on the divided and distracted state of his country. Early had he wished that he might live to see the day when instead of wasting our energies in sectional broils, instead of waging against each other a foolish and wicked contest, in which victory was without glory and defeat without consolation, we could, like a band of brothers, devote all our aspirations and all our efforts to our country's cause. Possibly the wish so long cherished might never be realized. Indeed he must say that he was not over sanguine in this expectation.—But he would not despair. He would not—he could not abandon the hope that harmony and good will were about to be restored. He did hope, that under this new order of things—under these favorable auspices, his beloved State was about to become all that her sons should wish her to be—that retaining the excellencies she now possessed—her love of liberty and order—her steady, kind, republican and industrious population—her simple and unobtrusive virtues,—there might be added to her whatever was best fitted to raise and decorate and ennoble her character. (Debate to be continued.)

DEBATE

ON VOTING *VIVA VOCE*.

Monday, June 22.

The following Resolution was taken up for consideration:

"Resolved, That a Committee be appointed to enquire and report, whether any, and if any, what amendments be proper to complete the members of the General Assembly to vote *viva voce* in the election of Officers."

The Convention, as usual, resolved itself into a Committee of the whole, Mr. Morehead in the Chair, on the above Resolution; when

Mr. Shoher moved the following Resolution:

"Resolved, That it is inexpedient to cause the members of Assembly of this State to vote *viva voce* in the election of Officers."

The question being put on this Resolution, without any remark, it was negatively.

On motion, the Committee of the whole rose and reported the original Resolution to the House without amendment.

Gen. Speight then moved the following Resolution, by way of amendment:

"Resolved, That it is expedient so to amend the Constitution of this State, that in all elections of Officers the members of the General Assembly shall vote *viva voce*."

Dr. Smith hoped this amendment would not prevail, but that the Convention would be satisfied to continue the old mode of voting by ballot. He could see no reason for changing it, nor any good that can arise from it. The great object in all elections is to secure a fair and free expression of the will of the voters, and he could see no advantage that the *viva voce* mode had over the ballot in attaining this object. He hoped, therefore, the old mode would be continued.

Gen. Speight hoped the change would be made, as it would be the means of ascertaining to a certainty how every man voted in an election of Officers. He did not wish to see this practice introduced into our elections generally; but he was clearly in favor of the change proposed. Indeed, he could see no reason why every member's vote should not be made known when he elected a Public Officer, as well as when he voted for or against the passing of a law.

Mr. Cooper was opposed to the motion. He was satisfied with the usual mode of voting by ballot. He could see no good reason for publishing to the world how every man voted for every officer elected.

Judge Seawell was in favor of the change. He thought there was the same reason for making known how members vote for Public Officers, that there is for taking the Yeas and Nays upon any question before the Legislature. It would prevent any preparation in future on subjects of this kind. At present, a member might promise to vote for a dozen different men for an office, and not vote for one of them.—Our Journal ought, he said, to record fully every man's doings during the session, that his constituents may be able to form a correct judgment of his course. A vote given by a man in his legislative character was very different from a vote placed in the ballot-box in his private character.

Judge Gaston did not approve of this departure from our usual mode of voting. He feared that the innovation would produce much evil, and he believed that it would be followed by little good. It was true, as stated by the gentleman from Wake, there is a marked difference between a vote given by a man in his private capacity, and one given in his legislative character.

A representative is responsible to his constituents, & they have a right to know how he voted on any particular subject. But while he should be responsible to his conscience and his constituents, he should be freed from all improper influence.