

RALEIGH REGISTER

AND NORTH-CAROLINA GAZETTE.

"Ours are the plans of fair delightful peace unwarp'd by party rage, to live like brothers."

THREE DOLLARS PER ANNUM,
ONE HALF IN ADVANCE.

TUESDAY, AUGUST 4, 1835.

VOLUME XXXVI
NUMBER 25.

PUBLISHED EVERY TUESDAY.

By Joseph Gales & Son.

TERMS.

THREE DOLLARS PER ANNUM—one half in advance. Those who do not, either at the time of subscribing or subsequently, give notice of their wish to have the Paper discontinued at the expiration of the year, will be presumed as desiring its continuance until countermanded.

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ON BIENNIAL SESSIONS.

Saturday, June 30.

On motion of Gen. Speight, the Convention resolved itself into a Committee of the Whole, Gen. Welborn in the Chair, on the proposition for holding biennial instead of annual meetings of the General Assembly.

Judge Daniel moved the following Resolution:

Resolved, That it is expedient that there be annual Sessions of the General Assembly.

Mr. Spruill moved to amend the motion, by striking out annual, and inserting biennial.

Judge Daniel believed, that the only reason that was offered in support of changing the Sessions of the Legislature from annual to biennial, was the saving of expense, whilst there were many reasons which occurred to him, against changing the fundamental principles of Government. To put off meeting annually, to once in two years, shews an inclination to neglect the important duty of legislation; for want of frequent calls to the exercise of this duty, the right itself might in time, be destroyed. All the powers not granted to the General Government are reserved to the State Governments and in the People, and as Congress meets annually, it is necessary the Legislatures of the States should meet annually to take care of their reserved rights, and see that Congress does not invade them.

On the score of economy, the Judge doubted whether much would be saved by biennial sessions. The number of the legislative body being reduced, the duration of their sessions would be shortened, and would not probably exceed four weeks; but if the sessions were to be biennial, they would require eight weeks to get through their business.

The Convention is directed to adopt some mode of preventing so much private legislation. He knew no way of doing this but by taxing all private bills, and this would not prevent it altogether. There are frequent occasions which render private legislation necessary, and to compel persons to pay a tax who have a right to apply to the Legislature for such acts, would be deemed hard. The right must be left open, and if some useless laws be passed, the cost of passing and printing them will be all the inconvenience sustained.

Mr. Cradup thought the gentleman from Halifax was mistaken, when he said the only ground on which biennial sessions was supported was, to save expense. It is urged that by holding the sessions annually, a number of useless laws are passed, and laws are frequently changed before time has been given to ascertain whether they are good or bad. Another reason in favor of biennial sessions, is, the people would be careful to elect suitable men as representatives, when they had to pass more permanent laws—the passing of laws by way of experiment would be prevented. But the gentleman from Halifax deems it necessary that the Legislature should meet annually to check the doings of Congress. He could not understand what influence our State Legislature could have on that body. We may indeed pass Resolutions asserting our rights; but Congress will pass such laws as they judge proper for the general interests of the Union. And if it were necessary for the General Assembly to meet on any special occasion, the Governor had the power to call the body together.

Dr. Smith said, he was in favor of the amendment of the gentleman from Tyrrell; and if that were carried, he should also be in favor of introducing a further amendment, that no session of the Legislature should sit longer than fifty days. He could see no necessity for annual meetings. He thought that a session of fifty days, once in two years, would be sufficient to make all the necessary laws for this State, & this change would greatly lessen the expenses of the Government. For the last ten years the greater part of the revenue of the State has been consumed by the sessions of the General Assembly. An amount, in the whole, of about 400,000 dollars. And if the State books be examined, it will be found that low laws of any value to the State have been passed during that period. He thought it time, therefore, to enquire whether we had not too much legislation. It had been said, that annual sessions were necessary to watch the proceedings of Congress. For his part, he should be glad that our General Assembly might

not sit during the session of the National Legislature; he did not think that the Members of our State Legislature ought to trouble themselves about the business of Congress. Biennial sessions of the Legislature were thought by some to conflict with that section of our Bill of Rights which declares, "that a frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty." He was of a different opinion. If the Assembly met in every alternate year, time would be allowed to ascertain the merits of a law which had been passed at a previous session. If any great emergency required an extra meeting of the Legislature, the Governor had the power to call it.

On the subject of limiting the Sessions, some might doubt whether the Convention had the power to act upon it. He thought the time of meeting of the Legislature, and the period at which its sessions should close, might be fixed. He threw out the matter for consideration of the Convention.

Governor Branch said, that the quotation from our Constitution made by the gentleman from Orange, was a sufficient ground for the motion made by his colleague, to continue the annual sessions of our Legislature. This fundamental principle has been acted upon for more than half a century, yet it is unknown to any but those Governments who have made some progress in the adoption of liberal principles. The preservation of liberty, he said, depended on a due preservation of a system of checks and balances.

Gov. B. differed in opinion from the gentleman from Orange, when he said we had nothing to fear from the General Government. He thought we had every thing to dread from Federal legislation. We see that some of the States have moved in favor of the powers that be. And it is apprehended that others may tread in their steps. We know that, in the year 1798, this State stepped aside to support the Alien and Sedition Laws. And that few of the States were found to oppose these laws until Virginia passed her famous Resolutions in 1799, on the subject.

Have we not, enquired Gov. Branch, in an instance of a more recent date, seen our Legislature rise in aid of a dangerous concentrated Federal Power? We certainly had; but he trusted we should see it checked as in former days.

He believed that annual sessions of the Legislature were well calculated to keep in check federal usurpations. The powers of the General Government are constantly increasing; and American liberty depends on the preservation of State rights and State powers. He was no disorganizer; but he was for keeping a constant watch on Federal power.

The saving of expense, Gov. B. said, ought to be one of the last considerations which should lead us to change our Legislative sessions from annual to biennial. As his venerable friend (Mr. Macon) had said—let the Civil List alone—the people will never be oppressed by it. It is as the dust in the balance. It may answer the purpose of demagogues to cut down the salaries of officers, which ought probably to be increased; but it answers no good purpose.

Mr. Cooper said, he was sent here to do justice to his constituents. He was in favor of biennial sessions. He believed that by meeting every other year, the Legislature would be able to pass all the laws that would be wanted, and all that could benefit the people of the State; and it would produce a great saving of expense.

Mr. Edwards did not concur in opinion with the gentleman from Orange, that this is so simple a question. He thought it a question of great importance. It was said, that biennial sessions were recommended by considerations of economy. He could not see this: for if two years were to elapse between each session, one session would cost as much as two, for they would sit nearly twice as long. But would gentlemen be willing to test a question of this vital nature on the score of expense only? When the rights of the people were at stake, would gentlemen speak of the cost of maintaining them? The Legislature, said Mr. E. is the most important arm of the Government. It is therefore all-important that it should meet annually. Suppose the Executive or Judiciary should be disposed improperly to extend their powers, what Power would there be to control them in the absence of the Legislature? And will it be expected that the Governor would call an extra session in such a case? Your subaltern officers are directed to report annually. Would you turn them over to the Executive power in the absence of the Legislature? It is said the Executive could at any time call an extra session of the Legislature; but he would rather the Legislature should meet under the direction of the Constitution, than on the call of the Governor. Conflicting claims may arise between the State and Federal Governments, and the State Legislature ought always to be ready to act in such cases. If the Legislature were not in session, additional power would have to be given to the Executive—a power that he did not wish to see increased.

Mr. E. reminded the Committee of an

Amendment which is submitted to the Convention, to provide a tribunal where-by the Judges of the Superior & Supreme Courts, and other officers of the State may be impeached and tried for corruption and mal practices in office; but if charges should be made against any of these officers, they could not be brought to trial, unless the Legislature were in session; they would have to continue in office, unfit and unworthy as they might be, for two years longer, unless the Governor might chuse to call the Legislature together.

But, it is said, that our Statute Book is crowded with too many laws. These are the acts of the people themselves. Their representatives can at any time repeal them, if they be not found good or useful.

He concluded with a hope that the Convention would not be hurried into a decision on this question.

Judge Seawell said, as he came from the county in which the seat of Government is located, and it might be thought by some that the particular interest which his constituents felt, would necessarily govern his vote. In the first place, said Judge S. I will say, that I am not quite satisfied in my mind, that they are materially interested in opposing the substitution of biennial, instead of annual meetings of the Legislature; for, I believe, the length of the sessions will be so increased, as to give them the profits of two years at one time, instead of being divided into annual instalments. But if their pecuniary losses were to be diminished in a considerable degree, yet that alone would not restrain him from adopting the proposed amendment: for he was not sent here to amend the Constitution so as to make it suit the interest of Wake county only, but to make such amendments as the interests of the whole State require. He regarded the State as one family, in which the interest of a large portion, ought to prevail over that of a small fraction. The question which is presented in the consideration of this proposition, appeared to him more identified with the liberty of the people; more closely connected with the permanency of our Republican institutions, accordingly as they should determine, than any other amendment which is submitted by the act of Assembly.

In modern times, it is universally admitted in all Governments professing to be free, that the exercise of all political power is derived from the people. And he believed the opinion was equally current, that the people, though the safest depositories of this power, are from their numbers, their want of information and their acquaintance with the mode of doing business, the least capable of exerting it by rational legislation. That they are obliged, from these causes, to have recourse to Representatives, in the choosing of whom, they are every way qualified. Thus we see, that in the regulation of the Police of a town consisting of few inhabitants, the experience of ages has been for the people to elect representatives. The great qualifications of the representative are, can he be trusted? Is he qualified in understanding? And who can decide these questions better than his neighbors? They have lived with him, had dealings with him, and must know whether he is able to be useful to them, and whether they can confide in him?—When, therefore, the people form a Government, in the practical operations of which they have no hand, it is of the utmost importance, as regards the security of their liberty, that the periods for which this power is delegated, should be the shortest within which the business to be performed can be accomplished. For however shocking to our senses it may be, it is nevertheless true, that on every subject of legislation, where the power of the Legislature is neither defined nor limited, the representative has nothing to control him but his own conscience. Who can recall him, or deprive him of this power, but the people at the polls? In what situation then, does every free man place himself, when this almost omnipotent power to legislate is delegated? For the period so delegated, they place themselves in bonds, which no treachery on the part of the agent can dissolve; no expedient on the part of the constituent loosen, till the next election.

But what are the reasons assigned for the change? Amongst others, are mentioned, economy, the little occasion on the score of business, and lastly, that when the constituent knows he is to part with his liberty for two years, instead of one, he will be more circumspect in his selection, by which the representation will be improved. Judge S. said, it seemed to him, that each of these reasons was radically fallacious. In the first place, the long sessions under the existing Constitution do not arise from any defect in the Constitution, but in the mode of its administration. The Judge said, he had been acquainted with the proceedings of the Legislature ever since 1795; and it was not till within the last 12 or 14 years that the sessions ever extended beyond Christmas. At those periods there was much greater necessity for lengthy sessions; more public bills were passed, and yet it is a notorious fact, the sessions were much shorter. As to the expense,

therefore, that must depend upon those who are the members; how they conduct the public business; and is capable only of a remedy at the polls, by those who elect the members. As to the last reason which had been assigned by the gentleman from Orange, (Dr. Smith) that proves too much, to be consistent with the form and principles of a Republican Government. If the argument is sound, this extension of election must also be correct within any reasonable limit. Then, sir, if two years power out of the hands of the people would so far excite their jealousy of its abuse, as to make them as much more circumspect as in a grant of one year, and thereby a benefit would be obtained, why not extend it to ten years, so as to gain ten years benefit? Sir, this argument is in the very teeth of the principle that the power should reside in the people; it strikes at once, at their competency to choose their delegates, and is one step in the march, by which all Republics have degenerated into Despotisms. Annual Parliaments was a struggle with the people of the mother country for nearly 100 years before our separation. Charles the 2d, was prevailed upon, not long after the Restoration, to consent to the passage of an act, by which the sittings of Parliament were not to be intermitted longer than three years. For though by the ancient Statutes, the King, who alone had the power, was bound to convoke the Parliament annually, or oftener; yet it is a well attested historical fact, that in the preceding reign there was an intermission of 12 years. Upon the Revolution, which took place in 1688, one of the first acts passed was nearly in the words of our Bill of Rights, declaring that for redress of grievances and amending and strengthening the laws, Parliaments ought to be frequently held—after which, for the first time, it became practically enforced by the Commons, who would not pass the mutiny act, and the land tax, and malt tax acts, for a longer period than one year; and the first being necessary to the Government, and the latter for the subsistence of the Army, the Parliament is necessarily convoked by the King every year.

When the framers of our Constitution commenced their labors, in order that the principles upon which they had formed it, might be understood, they distinctly declared them in the Bill of Rights, and which they made part of the Constitution. They went a step further than had been taken in the British House of Commons. Being about to construct a Government, in which all power was to reside in the people; but in which its exercise was to be delegated by popular suffrage, where the most influential and aspiring men would probably be chosen, to guard against the abuse of power when delegated, they declared that elections should be frequent, and as a commentary upon the word "frequent," declared in the Constitution they should be annual. It may be, that annual elections, and consequently annual Assemblies, cost something more than biennial; and it may be, that the public time and money have been and may be wasted, but what are they when compared to the blessings of our free institutions? What are they to the mischiefs that may grow out of this false step? And ought in sound policy a change to take place in the Constitution of a State, where the mischief or inconvenience is completely within its present power, while it leaves at the same time the new Government still subject to the same evil? I regard this amendment as a direct attack upon liberty, and shall therefore vote against it.

Dr. Smith had not intended to have said any thing more on this subject. The whole expenses of our Government, he stated to be about 70,000 dollars, 45,000 of which went to pay the expenses of the Legislature annually, and what, he asked, are the benefits accruing to the country from this expenditure? But it would appear, from what had fallen from gentlemen in this debate, because we propose biennial, in the place of annual sessions of the Legislature, that we are about to overturn the Government. On the contrary, the friends of this change, are desirous of seeing the Government conducted on plain economical republican principles. We cannot (observed Dr. S.) see the necessity of having annual meetings of the General Assembly for the purpose of watching the conduct of our Judges, our Governor, and the General Government.

This Government, said he, has been in existence 60 years, and has it ever happened that the Judges or the Executive have overstepped their bounds of duty? Dr. S. was clearly of opinion that this Constitution ought to obey the will of the people. They have seen their Legislature meet annually, at a great expense for 60 years, and finding that generally, but little good has been derived to the State, from these annual meetings, have directed this Convention to enquire into the expediency of making the sessions in future biennial.

As to the danger which gentlemen seem to fear from the General Government, he had no such apprehensions. He had no desire to see our Legislature intermeddle

with Federal Politics. His fears respecting the General Government are, it will become too unwieldy to be well managed. He apprehended no danger from its encroachment on State rights. The people of this State form a quiet and orderly community, but will always be ready to defend themselves on all proper occasions. He thought when gentlemen talked about watching the movements of the General Government, they meddled with business which was entrusted to others, and with which they had nothing to do. Mr. King was of opinion, that annual elections produced great feuds and disorders throughout the State, and furnished too much business for the Courts & Grand Juries. So that the cases occasioned by one election were scarcely got over, before another took place. He hoped, therefore, that the proposition for biennial sessions would be adopted. If an extra session of the Legislature became necessary it would be called by the Executive; and he could see no good reason for calling the Legislature together, annually, to pass fifteen or twenty public acts, and five times the number of private ones, at an expense of \$40,000, which would benefit no one in the State, except the citizens of Raleigh, forty cents. Were this large amount of money applied to instructing the poor and ignorant; to the improvement of our communication from one part of the country to another, how much real good would be thereby effected? In addition to the proposition of the gentleman from Orange, to limit the length of the sessions of the Legislature to fifty days, he should be glad to see them meet on the first of January, rather than at the present time.

Mr. Wilson, from Perquimons, was decidedly in favor of making the meetings of the Legislature biennial instead of annual, and laid before the Committee a calculation, to show the saving which would be thus made to the State.

But, said he, we are told that annual sessions are necessary for the purpose of watching the movements of the General Government. The people of North-Carolina, he believed, thought favorably of the measures of that Government, and the expense could not be necessary for that purpose. He thought that even a less time than fifty days, the limit which the gentleman from Orange proposed to give to the extent of sessions of the Legislature, would be sufficient to transact all the real business which could come before it.

Mr. W. observed, that the gentleman from Wake (Judge Seawell) had gone back to the time of one of the Charles's to tell the Convention what had been done in England at that time; for what purpose he could not tell. He could not see how it affected the question of our Legislature meeting annually or biennially? Mr. W. said it might suit the convenience of some gentlemen to attend annual sessions of the Legislature, but this could not be the case with members generally. The Federal Government would go on whether our Legislature met biennially or annually, and he did not think it worth while to meet annually for the purpose of passing a parcel of private acts, and appointing a few new Justices and Militia officers.

Judge Daniel observed, that all the old Governments, in addition to Executive influence, had their Nobility, forming a separate order. Our free Government ought to be careful in preserving her Republican principles. The Executive and Aristocratic Powers of a Government generally obtain political power from the people by degrees. He referred to the time when the Alien and Sedition laws were passed. But for the spirit with which Virginia acted, in relation to those obnoxious statutes, they might have been still in existence. He hoped we should not part with our annual sessions.

Mr. Skinner observed, that the present was a question of expediency merely, whether the General Assembly should meet annually or biennially. We have met here, said Mr. S. to carry into effect the compromise made by the people, who have plainly said what they wish us to do. The declaration of the Bill of Rights, which says that fundamental principles ought to be frequently recurred to, would not, in his opinion, be at all infringed by biennial sessions. The declaration did not say how frequent the recurrences were to be made. The term is a relative one, and would be satisfied whether the Legislature met annually or biennially. Mr. S. said he should not follow gentlemen into the history of other countries. He was satisfied, that in making the proposed change, no republican principle would be lost sight of, and that the change would be attended with a great saving of expense. The present Constitution has been our rule for upwards of 60 years, and this is the first time the people have recurred to fundamental principles. They have now done so, and instructed this convention to enquire into the expediency of changing annual sessions of the Legislature to biennial. He did not think it was necessary that annual sessions should be held, in order to send instructions to our members of Congress. If such instructions were deemed necessary, they ought to go from the people themselves

and not from their Representatives in the General Assembly. Mr. S. concluded by saying, that though he was friendly to the proposed change, not because it would be a great saving of expense only, but for other substantial reasons, he hoped he should not, on this account, be placed amongst the Demagogues mentioned by the gentleman from Halifax.

Gvv. Branch said, he certainly did not intend to apply the term demagogue to any gentleman who preferred biennial to annual sessions of the General Assembly. It was a subject about which gentlemen might honestly differ. The gentleman from Chowan, when speaking of the declaration of the Bill of Rights, which says "that a frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty," seems to think that the people have complied with this requisition, because they have after living under the present Constitution for sixty years, now called a Convention to amend it. Is it possible that the gentleman can be correct in taking this view of the subject? If this was the meaning of this clause of the Bill of Rights, he had greatly misunderstood it. He had supposed that our Government being founded on pure principles of liberty, superior to those of any other, it became necessary, in order to preserve their purity, to have frequent recurrence to first principles in legislating under it.

Mr. Skinner explained his meaning to have been, not that this was the first time these fundamental principles had been recurred to, but that this was the first time the people had thought it necessary to call for a revision of the Constitution.

Mr. Shober moved, in order to afford a further opportunity of discussing this subject, that the Committee rise and report progress.

This motion being put and negatived, Mr. Shober said, he would offer a few remarks to the Committee, in favor of holding the sessions of our Legislature biennially, rather than annually. It is supposed by some gentlemen who have spoken on this occasion, that by making this change we should depart from the principle laid down in our Bill of Rights, where it is declared to be necessary frequently to recur to fundamental principles, and that we should thereby, in some degree weaken our powers, as a check on other branches of the Government. On the contrary, he thought the change would operate very advantageously. What, he asked, is the complaint against the present system? It is, that we have too much legislation. And, if we can by any means correct the evil, we ought to do so. It is believed that the proposed change will in a great degree, cure the evil. Why do our Legislatures pass so few public acts and so many private ones? They do it, because they have little public business before them, and to fill up their time, private business is introduced. But when the General Assembly meets but once in two years, the case, he presumed, will be different.

With respect to checks and balances, he admitted that these were highly necessary, and ought to be preserved. The Legislative body ought to be a supervisory power over the Executive and Judicial branches of the Government. But this supervisory power will be exercised with as much effect by a biennial as by an annual meeting of the Legislature. Some difficulties might occur in making the change; but he could not anticipate any. It has never yet happened that our Governor was found so corrupt that he could not be trusted with power for a limited time; and if he wanted advice on any occasion, he could call his Council together. For his part, he should have no objection to entrust him with all necessary power.

Mr. S. was not certain that it would be proper to limit biennial sessions of the General Assembly, if we had the power of which he had doubts. If the sessions continued to be annual, he thought the limit might answer a good purpose, if it could be made. He thought that biennial sessions would not be inclined to sit longer than necessary to transact the public business. When this was done, and private business was introduced, a majority would be found in favor of returning home.

If the proposition for biennial Sessions be adopted, it might be necessary to make some further provisions in relation to the next session of the Legislature. Probably pending the discussion, he might offer an amendment to this effect. Judge Gaston rose and said, that he was so often under the necessity of intruding his views on the Convention, that he doubted whether he should ask permission of the Committee to offer his crude thoughts on the proposition then before it.

He had thought it his duty to consider all the subjects which had been submitted to the consideration of this Convention; for all the subjects are of importance, but he had not bestowed the same attention on this as on many others. On this question his mind had fluctuated. He did not apprehend that we are about to abridge the legislative power of the people. We must regard the moment given to this body as from the people

and not from their Representatives in the General Assembly.

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