

# RALEIGH REGISTER

AND NORTH-CAROLINA GAZETTE.

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## STATE CONVENTION.

The Articles of Amendment, in relation to the number of Members of which the Senate and House of Commons shall consist, being under consideration, Mr. Fisher moved to fill the blank with the word "biennial." The question having been stated from the Chair—

Mr. EDWARDS said, he did not rise to detain the Convention; for, if disposed to do so, he felt too unwell to make the attempt. But he owed it to the Convention to state, that whilst concurring in the Articles under consideration, so far as the number of Members in each House was concerned, yet he could not vote for them if the blank was filled with the word "biennial." He had pronounced it the other day one of the most important questions to come before the Convention, and subsequent reflection had gone to confirm the opinion. He could not therefore vote for any adjustment of Representation which would authorize Elections only at intervals of two years. This statement was due to himself—due to candor—and due to the Convention. Anxious that every amendment made to the Constitution should be confirmed, he was sorry to see this matter so pertinaciously insisted on; for in his opinion, if adopted, the people would reject the Constitution. They would not part with the control over their Representatives which annual Elections gave, for the sake of speculative notions of Economy. For the whole matter was open to conjecture, and the experiment was to be tried whether there would be any saving or not. He did not himself believe there would, for the Legislature would sit twice as long every two years, and, in the end, the expenditure would be fully as great.

Mr. CARSON of Rutherford, remarked, that he took part in this discussion with extreme reluctance, and felt much embarrassment in rising to do so. The manifestation of sentiment, exhibited the other day, was so clearly indicative of the result of the vote about to be taken on this question, that he should certainly not have troubled the Convention, but that he wished to justify the vote he should be bound to give.

Mr. C. said, he believed the great object which the people had in view in authorizing the call of a Convention, was to correct the inequalities of our Representation. That point attained, the most important and the one which most concerned them, they cared but little about any other alterations. In the discussions we have had on this question, economy and retrenchment have been assigned as primary considerations why biennial sessions should be preferred. In no part of the State, of which he had personal knowledge, had this question been fairly put in all its bearings before the people; and really, the more he heard it touched upon, the stronger was his conviction, it had better be left as it was. There are, said he, but three or four States in this whole Union, where biennial sessions are required by their respective Constitutions. With three of those, to wit: Delaware, Mississippi and Missouri, we have no connexion and can have no sort of practical intercourse; but in those States bordering on us, with which we might be presumed to have legislative intercourse, as well as in the Congress of the United States, all have their annual Sessions, and it might often occur in the course of all future time, that great and urgent matters might require that we should have simultaneous sessions. So far therefore, as this State might require a joint action with her contiguous sister states, it would be an advantage to have annual sessions.

Mr. C. said, that since the discussion the other day on this subject, at which time he felt inclined to vote for biennial sessions, he had bestowed much reflection on the subject, and the consequence was, that his mind had undergone a change. He begged leave to call the attention of the Convention to certain principles defined and laid down in our Bill of Rights, and what were they? It is to be observed, that though the Bill of Rights is declared to be a part of the State Constitution, yet it forms no portion of the organic part or body of our State Government, and enters nowhere into either the Legislative, Judicial or Executive Departments. It is therefore, nothing more than the most solemn declaration of those rights essential to the preservation of freedom, and which the wisdom of our ancestors have made sacred

by engrafting upon our Constitution—the principles of which are not new, but have been laid down and recognized from time immemorial. The 18th Section declares "that the people have a right to assemble together, to consult for the common good, to instruct their Representatives and to apply to the Legislature for redress of grievances." The 20th Section declares "that for redress of grievances, and for amending and strengthening the laws, Elections ought to be often held." The word "often" might be regarded as used in a qualified sense, and it might be said, that once in two years is often, within the true meaning of the Bill of Rights. But he believed this construction to be inconsistent and unreasonable, seeing the practical exposition given of it by the framers of our Constitution themselves, in fixing upon annual sessions.

There is another Section, said Mr. C. to which he would call the attention of honorable gentlemen. That is the 21st Section, which declares "that a frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty." What are fundamental principles? One of them is the supervisory power the people have over their Representatives, and may be found in the first Article of the Bill of Rights, which declares "that all political power is derivable from and belongs to the people." So far as you postpone or put off the right of suffrage, so you weaken and cut up this most excellent principle of free Governments. This Convention, I trust, will not hastily repudiate and set it at defiance.

If, Mr. President, the people who have this right to apply to the Legislature for a redress of their grievances, are to be put off for two years, before they can be heard, and run all the chances of disappointment in the end, why Sir, it amounts to a denial of the privilege, and is to my mind, a manifest violation of the true spirit of that clause, and can be no longer considered an axiom in free Governments. Again Sir, frequent Elections give value to the right of suffrage, and secure a prompt and faithful accountability from the Representative to his constituent, and in the law-making branch ought not to be departed from. His motto was—annual Elections and short sessions. By this means, we would have a rational system of Legislative economy and preserve our Institutions in their happy and just proportions. To be blotted out of political existence for two years—the very thought chilled his blood and made him feel for the safety and prosperity of the State. Before manhood, and in his boyish days, he was lifted in joyous transport, at each anniversary of this our political jubilee. The spirit, the jovial animation with which the people of all ages and conditions press forward to the polls, prove by the manner of its enjoyment, that they set a high value upon this privilege.

Mr. C. said, that annually, in his section of the State, when people have finished working their crops, they assemble at public places to hear political discussions, then being carried on by those canvassing for their suffrages; and many of these discussions are managed with great spirit and are often replete with instruction to those, no otherwise conversant in political affairs; and of that class, are a large portion of their hearers. If it be true, that one of the best securities of the rights and privileges of a free people, is to enlighten them on these topics, I would say, in proportion as you take away or diminish their elective rights and prevent opportunities of mingling with and hearing public men, and profiting by public discussions, in the same degree, you weaken and detract from the stability of our free institutions. His own observation and experience warranted him in saying, that these discussions in politics now-a-days, though more frequent, yet they were listened to, and were often delivered in a style to make useful impressions on the people, and served to put them in possession of the public topics which at the particular juncture were of the greatest moment. It might be said, that there are other sources of political information; for instance, the newspapers of the day. This species of reading is extending and becoming more diffused; but it is not general, and is not half so good as a spirited discussion before the people. In the Northern States, the people have the advantage of free Schools, & education is more universal. Here, we are not so generally educated, and therefore need all the benefits of knowledge derived from these and other sources. Collision of sentiment elicits the truth; and it is, said Mr. C. a sound, though a hacknied expression, that when the people know the truth, they have no other interest than to do right in public affairs.

Mr. C. said, he disliked this innovation extremely, and was sorry to see gentlemen as pertinacious on this point. He was unwilling that a chasm should take place in our Legislative Councils for so long a time as two years. It will dampen the love of country and wear the people from the bosom of their own State institutions. Being in favor of annual elections and short sessions, he should vote against the amendment which proposes Elections only once in two years.

Mr. FISHER said, he was in favor of biennial sessions for a few reasons, which he would briefly state. In the first place, he thought they would insure to the State more careful, and better legislation. If there be biennial sessions, there must be biennial elections. When elections take place only once in every two years, he thought the people would be more particular in the choice of their members. I am in favor of frequent elections, said Mr. F. but there may be such a thing as having them too frequent. Whenever a thing becomes very common, it ceases to be much valued, and when we cease to prize it, we are careless how we use it. The elective franchise is the greatest political privilege we enjoy, and the danger is, that we undervalue it by the frequency of elections. By having our State elections only once in two years, the people will value the privilege more highly, and exercise it more judiciously. As it now is, in many places we see that the people care but little about going to the polls, and oftentimes give themselves but little trouble to enquire into the qualifications of the candidates: They say, it is only for one year, and if the election goes wrong, next year they can correct. Members of Congress are chosen only once in two years, and has the country experienced any inconvenience or injury from this? I think not. If it be proper to elect members of Congress, whose powers are so vitally connected with the principles of liberty, only once in two years, can it be less so to elect in the same manner members of the State Legislature, whose sphere of action is more limited and less dangerous to the rights of the people? In the new States, where there is a constant filling up of the country, where new counties are every year springing into existence, and where new laws and regulations become necessary, it is certainly proper that there should be annual sessions of the Legislature; but in an old State, like North-Carolina, where every thing is settled, where the system of laws are established, and all the institutions of the country fixed, no such necessity can exist. When there is nothing for the Legislature to do, why bring it in session? It is with Legislative bodies, as with every other mass of men, if they have nothing to do that ought to be done, they will be very apt to set about doing what they ought not to do. For my part, said Mr. F. I think, at present, there is more danger to be apprehended to the institutions of the country from too much, than from too little legislation. When we look around, and see the Legislatures of the several States, and of the Federal Government, all in full operation at the same time, manufacturing laws at the rate of five thousand a year, it is a matter of wonder that our political institutions can remain permanent under this annual flood of enactments, changes and innovations. It looks like unsettling every thing.

A second reason in favor of biennial sessions, is, that the Legislature itself being better selected, will be more cautious in its enactments. The members will consider that the laws they make will have to stand for two years, and therefore they will be more careful what they do. As it now is, laws of doubtful policy are often enacted, because if they do not work well, they can next session be repealed.

A third reason is, that there will be more steadiness and consistency in our legislation. It now often happens, that laws are enacted at one session and are repealed at the next. The session adjourns in January—the Acts usually come out in May, and the elections take place in August. So that the laws are scarcely promulgated, before the new members are elected. It often happens, said Mr. F. that an act is passed at one session, is repealed at the next, and at the succeeding one re-enacted. This was the case with that important act abolishing Imprisonment for Debt. Now, if there were biennial sessions, the people would have time to see the operations of the law, and could determine better, whether it ought to be repealed or continued.

Mr. F. said, he was in favor of biennial sessions, on the score of Economy. Economy is not less a virtue in Governments than in private families. Whenever we see a Government disregarding the principles of economy, we may look out for abuses and corruptions. If therefore, biennial sessions, in addition to other advantages, will occasion a considerable saving in public expenditures, surely we ought not to disregard this consideration. Will this be the case? Some gentlemen say not, but he was certain it would. We know that the annual expence of the Legislature has been, for a good while past, about \$40,000. At the last session, our Legislature consisted of 202 members; the new Constitution will throw off 32 of these, and leave in future 170 members in both Houses. For several years past the Legislature has continued in session from 50 to 55 days, or from 100 to 110 days in two years. If a Legislature consisting of 202 members, could do the business of two years in 100 or 110 days, Mr. F. said, he felt certain that a Legislature of 170 members, can do the same amount of business in 75 days; for the reason that small bodies do business with greater despatch, than large ones. One hundred and seventy members, with in-

cidental expences, for a session of 75 days will cost about \$40,000, or only one half what two sessions now cost. Is this sum worth saving? Certainly it was.

Mr. F. said, he would very briefly notice one or two of the objections advanced against biennial sessions. It is contended that there ought to be annual sessions of the State Legislatures, in order that they may stand as guards over the rights of the people against the encroachments of the Federal Government. This was not a new idea to him; he had considered it before he came here, and felt its weight. He believed with those who opposed biennial sessions, that the State Legislatures are the natural and legitimate guardians of the rights of the States and the people, and that it was not only their right, but their duty, to keep a strict watch over the conduct of our Federal Rulers. The writers of the Federalist, Alexander Hamilton, John Jay and James Madison, take this view of the subject in the 26th No. of that able work. I do not believe, however, said Mr. F. that the mere action of the Legislature, that is, the passing of a resolution, is a check to usurpation; for, so far as his observation had gone, the Legislature as often decides in favor of the abuse of power as against it. It depends altogether how the majority of the State stand affected to the Administration. If, for example, they are for the powers that be, then the Legislature will approve if otherwise, will censure. The guardianship, therefore, does not consist in the vote of the Legislature, but in the opportunity it affords for public discussion. The Federal Government is far off from the people—the State Government is close by. The people of North-Carolina, send to Congress 13 members; they send to the Legislature 202. They therefore have better means of knowing what takes place in the State Legislature than in Congress. The friends of liberty can speak to them with more effect from Raleigh, than from Washington, and the people will listen to the arguments of the minority as well as of the majority. As a proof of the correctness of this view, Mr. F. said, he would remind the Committee that the Legislature, in 1798, refused to condemn the Alien and Sedition Acts, but the agitation of the subject awakened the attention of the people to it, and the State was soon revolutionized in politics. So, also, in 1822, the Legislature of North-Carolina approved Congressional Caucuses, by refusing to censure them; but the arguments went out among the people, and they declared against Caucuses. It was the discussion then, that took place, and not the vote, that made the Legislature, the guardian of the people's rights, against federal encroachments. But the question is, will a change to biennial sessions make the Legislature less a check against encroachments, than at present? Mr. F. said, at first, he thought it would, but further reflection brought him to a different conclusion. It is only on elections that these discussions in the Legislature can act, and elections for members of Congress take place but once in two years. If therefore, our sessions can be held during the winter, before the elections take place, then the people will have the full benefit of all the light and information that were called forth during the preceding session. Another advantage of these biennial elections will be, that it can be so arranged, that our State elections and our Congressional elections shall not come on in the same year. As it now is, both come together, and the consequence is, that very often, the State elections influence the Congressional election, and vice versa. But to bring them on at different times, the minds of the people being less distracted with conflicting claims, will be able to make better and more disinterested selections. When the Congressional election is pending, Federal Politics will be mostly discussed, and when the State elections are pending, State and local matters will engross attention; so that each will stand fairly before the people, and candidates will have less chance of combining to aid each other in their schemes of ambition.

Mr. F. said, for these reasons, to which he might add others, if time allowed, he would vote for biennial Sessions of the Legislature.

Judge TOOMER rose to make but a remark or two. This Convention, he said, was authorized to provide for biennial, instead of annual meetings of the General Assembly; but it has no authority to deprive that body of any other power conferred upon it by the Constitution. That instrument does not declare that the Legislature shall meet annually, but certain duties are prescribed in it, which are to be annually performed. But it contains also a provision, that the Legislature may adjourn themselves to any future day; so that if the amendment prevails, and we declare the Legislature shall meet biennially, yet it will be perfectly competent for that body, when assembled, to adjourn to meet annually, semi annually, or sooner, if the public good may seem to require it. The argument therefore, that biennial sessions of the Legislature will be productive of great evils, has no force; for if the people are in favor of more frequent meetings, public sentiment will coerce that body to adjourn, to meet again in

twelve months. We do not then, as has been argued, deprive ourselves of the privilege of meeting annually, if the people so will it. If it be found, that annual sessions are essential to the preservation of our political rights, the people will willingly incur the expenditure necessary for the purpose.

Judge T. said, we did not now exercise the privilege of convening the Legislature so frequently as our ancestors did. Why was this? One reason perhaps, was the expense, but another was, that the frequency of enjoyment had palled upon the appetite. He believed that the liberty of the people depended upon the purity of the elective franchise, and he was therefore disposed to make it more highly appreciated. Would the sparks of liberty glow with less intensity if the Legislature met every two years, than they do now when it meets every year? Why is it, that the Congressional elections excite more interest than the elections of members of the Legislature? It is because the duties of one station are more important than those of the other; it is because the people, exercising the right of suffrage but once in two years, are more circumspect in the selection of their agents, and attach greater value to the privilege.

"Coming events," it was said, "cast their shadows before," and though practical, Judge T. remarked, it was nevertheless true. For years, there have been complaints that the Legislature was too frequently assembled at great expense, without any corresponding public benefit. The people have found fault, because so often called from their farms to vote—they have complained that their young men met too often at election grounds, for purposes of intemperance and dissipation—every class of the community has complained on this score. It was expected, on every hand, that if a Convention were ever called, this subject would be examined and revised, & therefore, there could be no surprise about the matter. He hoped the amendment would prevail.

Gov. SWAIN said, he should vote to fill the blank with the word "biennial," with a view to press the amendment he had alluded to in his remarks.

Judge GASTON said, that the amendment of the gentleman from Bluncombe, he thought, was wholly unnecessary. In proposing amendments here, gentlemen did not always advert to the provisions of the existing Constitution. The 10th section of that instrument gives to the Legislature the power of "adjourning themselves to any future day and place." That part of it which authorizes the adjournment to any other place, was annulled by the Ordinance fixing the permanent seat of Government at Raleigh; but the power to adjourn to any future day still remains, and, if it shall be found, that the people desire more frequent meetings of the Legislature, the General Assembly is competent so to provide.

The Ayes and Noes were then taken on the question—Shall the blank be filled with the word "biennial?"—and decided, as heretofore stated, in the affirmative.

## Debate on Borough Members.

Wednesday, June 24.

The Report of the Committee allowing the towns of Edenton, Newbern, Wilmington and Fayetteville each a member, being under consideration:

Mr. J. B. SKINNER said, though he rose to address the Convention on the subject of Borough Representation, he wished to consider the subject only as connected with the great interests of the State at large.

When the subject was under consideration, some days ago, in Committee of the whole, he took no part in the debate, but voted in favor of allowing members to a portion of the Borough towns—to which he had intended to have added Edenton, had he found a proper opportunity of doing so.

The subject, Mr. S. observed, had already undergone a pretty full discussion. The right of representation for the Boroughs, is claimed by the citizens inhabiting them, first, on the ground of being a separate and distinct class, consisting of merchants and commercial men, having a separate interest from men engaged in agricultural and other pursuits. If this were the only ground on which the citizens of Boroughs claimed a right to be represented, he should not insist on their right. But there is another ground on which he thought these Boroughs were entitled to consideration; it is because of the existence of a distinct commercial interest in this portion of the country, peculiar and important, which requires a distinct consideration. The question is, is this interest of sufficient extent to require separate consideration? He thought it was. It is not confined to Boroughs only. It extends throughout the country wherever trade is carried on. But the commercial business of this country is principally conducted on our sea-board; it matters not so much what number of persons are engaged in it, but the amount of property employed in it, ought to be considered. Agriculture and Commerce ought to go hand in hand; for whatever is produced by Agricultural industry beyond the sup-

ply of our immediate wants, needs the aid of Commerce to find for it a good market, and to exchange it for other articles of necessity and convenience from abroad. The two interests are therefore inseparably connected, and each ought to receive the protection of the Legislature. This protection is peculiarly necessary for the Commercial interest, which differs materially from any other. It has a separate code of laws, calculated to meet all its wants in relation to Inspections, Insurance, Exchange, &c. This distinction of interests between Commerce and Agriculture, and the necessity of protecting both, had been fully illustrated in the debate which had already taken place.

Mr. S. then introduced a number of facts, to show that a very considerable Commerce is carried on through the Albemarle and Pamlico Sounds, and in the waters connected with them; the quantity of corn and naval stores produced, and the quantity of shipping employed to carry them to market is great. It had been estimated, he said, that produce to the amount of five millions of dollars was annually shipped from that section of the State, and that three and a half millions of it went through the Albemarle, and employed 200,000 tons of shipping to transport it to market. He left gentlemen to judge, therefore, whether the commercial interests of this portion of the country were not deserving of consideration, and whether the towns in which the Commerce of the Country is principally carried on ought not to be distinctly represented.

Mr. HOLMES had heard nothing since he spoke on this subject before, to change his opinion as to the propriety of continuing Borough representation. The town of Wilmington, situated in the county which he represented, was the largest and most important seaport in the State; but he saw no necessity for a separate Representative for that town, distinct from the County members. He was satisfied, indeed, that the inhabitants of Wilmington themselves did not desire the privilege contended for. Mr. H. denied that the port of Wilmington paid the large amount of duties to the General Government that had been represented. Instead of paying 100,000 dollars in duties to the General Government, one-fourth of that amount was not paid; and whatever was collected in this way, went into the Treasury of the United States, and not into the Treasury of the State.

It had been said, that the citizens of Wilmington had scarcely any voice in the election of a Senator. This, Mr. H. said might be easily remedied, as land sufficient to qualify them to vote, could be obtained at a very low price.

Mr. H. referred to an Act which the town Member from Wilmington had caused to be passed in the year 1826, which had given great dissatisfaction to the people of that town, and certainly was no evidence, that they uniformly set a high value on the services of their Representative.

From the Carolina Watchman.

## NEW CONSTITUTION.

Consistency is a Jewel.—In a meeting of the Western Members of the General Assembly, in the Winter of 1832-33, a Committee was appointed to prepare and publish an address to the people of North-Carolina on the subject of amending the Constitution of the State. This duty, the Committee discharged in a masterly style, through their organ Mr. Haywood. In the address which they published, one of the most conspicuous evils of the Constitution was stated to be the THIRTY-SECOND SECTION. In this very able paper, the following language is used relative to this Section:

"In the 32d Article of our Constitution there is an odious RESTRICTION ON CONSCIENCE. By excluding from public trust, all persons who deny the Protestant faith. We are Protestants, therefore we can have no personal interest in the abrogation of this restriction. But will it be expected of us at this day, to offer arguments in favor of Religious toleration? We hope and believe not."

"It is a disgrace to any free people to tyrannize over the consciences of others. It is a gross & undeserved imputation against the patriotism and public virtue of the Catholics of North-Carolina, to preserve any longer this badge of our fathers' prejudices. The Article itself is in conflict with our Bill of Rights, when it declares that all men have a natural and inalienable right to worship Almighty God according to the dictates of their own consciences."

This Committee recommended to the freemen of North-Carolina for this, among other reasons, to declare by written tickets whether they wished amendments made in the particulars mentioned in their address—and although in most of the largest Western counties, the attention of the voters was called off by the incessantly animated contests that prevailed in the Congressional and Legislative elections, (this being the crisis of Nullification) yet most of them gave most unequivocal demonstrations in favor of the proposed a-