

RALEIGH REGISTER AND NORTH-CAROLINA GAZETTE.

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

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EXTRACTS From the Speech of Mr. HARD, of N. York, on the N. Carolina Contested Election.

"The remarks and comments which I have made on the report of the majority, have been dictated by none other than the kindest feelings of personal regard for the members of that branch of the committee. I have avoided, as in justice I should have done, any imputation of improper motives; on the contrary, I have felt disposed to sympathize in the perplexities of their laborious task. I have been ready to ascribe all error and mistake to the numberless difficulties the committee had to encounter; but, as it has been remarked frequently in debate, that the report carried with it high authority, and fearing that many might, as is common, take it as conclusive as to the truth of the statements it contained, I felt called upon by a duty I owed to myself as a member of the minority of the committee, and by a sense of duty to this House and the People of North-Carolina, to speak out, and warn the House of the danger of the course they were pursuing, by adopting in gross the conclusions of a report involving so many inaccuracies.

Before I sit down, I would direct the attention of the House to the conclusion which seems to me the necessary result of the consideration of the legal points and facts to which I have alluded in the remarks I have just submitted.

The majority contend that they have found evidence to establish the illegality of nineteen votes, which were given to Graham, and which ought to be deducted, viz. thirteen given by non-residents of the county, five non-residents of the State and one minor, making 19. They also claim that the three Yancey votes, given at Henderson, Buncombe county, and rejected by the judges at Asheville, should be restored to his polls; and, lastly, six votes which were tendered to the board, and rejected, should be added to his polls, which, in all, would make 28 votes to be credited to him, thus:

19 votes, non-residents and minors,	19
3 Yancey votes tendered and rejected,	3
6 votes tendered and rejected,	6-28
They also credit to Graham,	
8 bad votes given to Newland,	8
7 original majority,	7-15

Difference and majority for petitioner, 13 Among the nineteen illegal votes alleged to have been given to Mr. Graham, the sitting member, four are supposed to be given by persons whose names do not appear upon the scrolls. These scrolls, in some States called poll lists, are made out and certified to by the sheriff of the county, under the provisions of the laws of North-Carolina; one copy of which he is required to file in the clerk's office of the county, after "the same is certified by the sheriff." These scrolls, duly authenticated under the seal of the clerk of the county, are the highest & most solemn evidence of the matters contained in them. They are especially the highest evidence of the truth as to who did vote, and how many.

As the names of these four individuals do not appear upon the polls certified to us, and furnished us, too, by the petitioner himself, a question arises whether he, the petitioner, shall be permitted to give parol evidence of third persons that these four persons did vote? The manner in which the polls are kept by a sheriff and two inspectors, sworn to conduct the elections fairly and honestly, and who are required to keep each a separate list of all who vote, which lists are to be compared and certified by them to the sheriff, furnishes the most solemn and veritable evidence of the correctness of the registry as to who did vote. And by permitting third persons to give evidence by parol to contradict this, would be a gross departure from the oldest and most salutary rules of legal evidence. The proof, therefore, that these four votes were given to Graham, must fail. This will reduce their number to twenty-four, or in other words, will reduce the nineteen illegal votes to fifteen. If the view which I have taken of the propriety of allowing the six votes tendered and rejected, be correct, there must be deducted six votes more; and if the view which I have taken of the three votes given for the petitioner at Henderson Buncombe county, by the three citizens of "Yancey" be correct, then three more must be deducted from the number of illegal votes, which the petitioner alleges should be deducted from Graham's polls, leaving of the twenty-

eight alleged illegal votes, but fifteen which, in any event, should be deducted from the sitting member's polls. Bad votes for Graham, in all, fifteen. Now, sir, let us consider the votes which Mr. Graham contends are illegal, and which, having been given to the petitioner, he claims should be deducted.

There were eight votes which are clearly proven to have been illegally given to Newland, which should be deducted from his polls. On them the committee were unanimous. They are illegal beyond contradiction. To these should be added the five votes which were improperly exchanged for the Commons to the Congressional box for Newland, for the reasons which I have just stated; which would make thirteen illegal votes given to Newland, and to be credited to Graham. If to this you add the seven votes, his original majority, the sitting member's polls will stand thus:

1st, 8 bad votes by agreement of Committee,	8
2d, 5 votes illegally exchanged,	5
3d, 7 votes, original majority,	7-Total 20
If from these 20 you take votes credited to Newland, say,	15

"We have five votes majority still for Graham, 5 Sir, I sincerely believe, if this case were presented to a jury, acting under a solemn oath, to find a true verdict from the law and facts before us, they could not come to a result more favorable to the petitioner.

But, sir, the sitting member claims to have allowed him ten more votes, which are proved to have been illegally given for the petitioner, by the documents which have been laid on our tables since this report came in; and this forms the last point with which I shall trouble the House.

It is clearly right that these should be allowed. They have been taken under notice duly served according to the laws and practices adopted by the petitioner himself; they have been printed by consent, and laid before us. The proofs are clear and conclusive, consisting, in most cases, of the oaths of the voters themselves, that ten more illegal votes are given to the petitioner, which, according to the clearest estimates, would swell the sitting member's majority to fifteen votes; Sir, we dare not reject this evidence; it is before us; it is legal; it tells us, in audible words, that the sitting member has a majority of the legal votes of the twelfth Congressional district in North-Carolina; and if we refuse them, & thereby the sitting member loses his seat, we do nothing less than take the election from the People, and control it in this House. Sir, North-Carolina will never submit to it. She is too jealous of her State rights. She is too republican to submit patiently to so high and flagrant an assumption of unauthorized power.— It would be establishing a precedent in this House that would strike at the root of the right of free and unrestrained elections. This evidence must be admitted; we dare not reject it.

Among the reasons that have been assigned why these depositions should not be admitted, negligence on the part of the sitting member, in not collecting his evidence in season, forms a prominent one: he is said to have waived his right by gross delay. With a view of testing the soundness of these reasons, and of exposing the great injustice of the charge, I must tax the patience of the House with a brief statement of the proceedings in the case before it reached the committee.

The election for members of Congress was held in North-Carolina on the 13th day of August last, when, of all the votes given in the district, the sitting member received seven more than the petitioner. On the 2d day of October thereafter, the latter served the former with a notice of his intentions to contest his election, without inserting the names of witnesses or names or residences of the voters challenged. On the 19th he followed this notice with another, apprising the sitting member that on the 29th he should take the depositions of "James D. Justin and others," at Asheville, in Buncombe county, a distance of 40 miles. The same notice also apprized the sitting member that on the Saturday following, the 31st, he should take the depositions of individuals at Burnsville, in Yancey county, 58 miles further. They were detained, at the first place, two days, examining their witnesses, which brought them to the 31st, the day they were required to be at the latter place. On the 26th day of October another notice had been served for taking depositions at Frontston precinct, in Macon county, on the 4th day of November, 106 miles from Burnsville. They were detained at Burnsville three days, taking depositions; this left them one day to prepare and travel over a rough country, on horseback, 106 miles. In this same notice he was required on the 7th, to appear at another place in the same county, and on the 9th, two days after, at Waynesville, Haywood co. 65 miles. In the same way were these notices crowded upon him, until, from the 29th October to the 30th of November, he was summoned to attend the examination of witnesses in twelve different places, at an average distance from each other of 63 miles. This would allow the sitting mem-

ber for travel, attendance, and preparation, an average of two days and a half; and yet he is charged with "negligence" and gross delay in not preparing himself before the first day of the term for trial. Sir, in justice, perhaps, to those gentlemen who charge delay in this case, I ought in charity to say that the charge has been inadvertently made, without due reflection, and with but a slight knowledge of the case. All this time, from the service of the first notice to the second day of December, the sitting member was employed in cross-examining and resisting the evidence of the petitioner, without an allowance of a single day to take depositions in his own defence, unless he chose to take them by a forced employment of the time already pre-occupied by the other party. The gentlemen who have debated this point, in estimating the time actually allowed, have commenced with the 1st of October, the day when the notice of intention to contest the election was served. In this they have fallen into an error. This was simply a notice of an intention to contest the seat. Although by the laws of North-Carolina such a notice is made a prerequisite, it has never been considered by this House the commencement of judicial proceedings. It has been decided, in an adjudicated case arising in this House, that, although such a previous notice intimated a disposition to contest the seat, it did not evince a fixed determination to do so, and that the returned member was not bound to take any active measures of defence until some judicial notice, such as to apprise him of taking depositions, was served, or some other active and efficient step in the case. In that case it was very aptly remarked by the committee who made the report, that "it was very easy for a person to threaten such a contest, though he never intended to prosecute;" that in such a case, "it would be unjust and fully to require the sitting member to enter upon his defence, and incur the expense and trouble of preparation, under the bare possibility that a contest might be waged." If we adopt that principle here, which is but just and reasonable, then must we adjudge the first judicial proceedings to have commenced on the 19th day of October.

But it is said, if the notices did not afford sufficient time for the parties to appear in person, they ought to have employed agents to appear for them at places where they could not. There is no legal substance in this plea. The employment of an agent is a measure the sitting member might adopt or not at his own option; it is not one that the petitioner could dictate, either expressly or by implication. The law, indeed, recognizes but does not create such agencies; in contemplation of legal notices, every person is supposed to transact his own business.— The right to employ an agent in such cases is a personal privilege that no law can either dictate or deny. The true question here is whether the sitting member was allowed sufficient time to appear in his own person at these several places to examine witnesses?

There is another manifest error, into which some gentlemen, who have discussed this question of time, have fallen, which should not be overlooked. It is said it would lead to an unsound and dangerous practice, if we were to permit this evidence to come in, since it was taken after the committee had decided that no other evidence should be taken. The error consists in a misapprehension of the decision of the committee: it was not that they would not receive any more testimony, but that they would not suspend their deliberations with a view of granting further time. If their decision had said they would receive no more evidence, it would have shut out some of the most important depositions which the petitioner produced. These were received, considered, and adopted after the decision denying further time was made. If these depositions had been received before the report was made, I have no doubt they would have been received. Is there any assignable reason why they might not as well be received now as then?

Whereupon, the following gentlemen were named: Henry W. Jones, Ivey Harris, Daniel A. Paschal, W. T. Hargrove and Clement Wilkins, Esqs.

We should be glad to have in our possession, to spread before the public, the animated and feeling address of the worthy and venerable Chairman—a man of three score and two years—who, though young at the time of our Revolution, imbibed the principles of the eventful period which "tried men's souls," and now as then, is a firm Whig—a devoted lover of his country and his country's good—always a Republican, which has been preserved from the taint of the modern new-fangled democracy. He spoke of the encroachments of the federal Executive in a tone of firm and decided reprobation—and stated his belief, that if Judge WHITE were elected, he would be the President of the PEOPLE, and not the root of a Party—that from his acknowledged ability and consistency, we had every thing to hope—an impartial administration of the Government, and a dispensation of the office created for the good of the People not according to political tenets, but the qualification to office would be capability and honesty: while on the contrary, we had every thing to fear from the elevation of Van Buren—a man who has no fixed principle but INTEREST, & whose interests are not identified with ours; whose whole life has been one continued series of hostility to the South and her institutions, and they were the subjects of issue—and especially, from his inconsistency; for what, with him, is inexpedient to-day, may become highly expedient and necessary to-morrow. But we will not attempt to do justice to the effort. Suffice it, they were the plain and honest convictions of one of our worthiest citizens, and to be properly appreciated, must have been heard; and we speak the sentiments of many, when we say, we felt, when he had finished, an additional impulse to action, and thrice invigorated for the contest.—Oxford Examiner.

On motion, it was Resolved, That the Chairman appoint five delegates, to meet delegates from the counties of Person and Orange, for the purpose of nominating an Elector for this Electoral District, who will carry out the feelings and views of the people here assembled, to meet at such time and place as the Delegates from the above named counties may appoint.

Resolved, That the Chairman of this meeting appoint Committees of Vigilance, consisting of three individuals, in each Captain's District.

Resolved, That the proceedings of this meeting be published in the Carolina Watchman and the Western Carolinian, printed in Salisbury, and in all other papers in the State friendly to the election of Judge WHITE as President, JOHN TYLER as Vice-President, and EDWARD B. DUDLEY as Governor of the State.

Resolved, That the Chairman of this meeting be Reuben Kendall, Chairman.

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Resolved, That we will support HUGH L. WHITE of Tennessee for President, because we have the utmost confidence in his practical ability, his sterling integrity, and his open and consistent course of conduct as a politician; we will support him because of his identity of interest and feeling with the South.

Resolved, That we concur in the nomination of JOHN TYLER of Virginia for Vice-President, because we believe him to be an able and honest politician.

Resolved, That we will support EDWARD B. DUDLEY of New-Hanover for Governor of North-Carolina, because we esteem both his public and private character, and have the utmost confidence in his ability and principles as a politician.

Resolved, That we concur in the nomination made by the Counties of Rowan and Davidson of John Giles, Esq. as the candidate for Elector for this District.

Resolved, That, in the opinion of this meeting the Blomire County was an unauthorized and irresponsible body of office-holders and officers-ekers, assembled to do the will of their chief; that Philo White went to that Convention without the knowledge or consent of the freemen of Montgomery county, and in doing so was guilty of an unauthorized and impertinent assumption of their rights.

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a moment before in that direction, I never saw him afterwards. I had not time to think of the meaning of these shots, before a volley, as if from a thousand rifles, was poured in upon me from the front, and along our left flank. I looked around me, and it seemed as if I were the only one left standing in the right wing. Neither could I, until several other volleys had been fired at us, see an enemy—and when I did, I could only see their heads and arms peering out from the long grass, far and near, and from behind the pine trees. The ground seemed to me an open pine barren, no hammock near that I could see. On our right, and a little to our rear, was a pond of water some distance off. All around us were heavy pine trees, very open, particularly towards the left, and abounding with long high grass. The first fire of the Indians was the most destructive, seemingly killing or disabling one half of our men.

We promptly threw ourselves behind trees, and opened a sharp fire of musketry. For some, never fired without seeing my man, that is head and shoulders—the Indians chiefly firing by or squatting in the grass. Lt. Bassinger fired five or six rounds of canister from the cannon. This appeared to frighten the Indians, and they retreated over a little hill to our left, one half or three quarters of a mile off, after having fired not more than 12 or 15 rounds. We immediately then began to fell trees, and erect a little triangular breastwork. Some of us went forward to gather the cartridge boxes from the dead, and to assist the wounded. I had seen Major Dade fall to the ground by the first volley, and his horse dashed into the midst of the enemy. While gathering the cartridges, I saw Lt. Mudge sitting with his back reclining against a tree—his head fallen, and evidently dying. I spoke to him, but he did not answer. The interpreter Louis, he said, fell by the first fire. [We have since learned that this fellow, who had been shot, that his life was afterwards spared, that, being an educated negro, he read all the despatches and letters that were found about the dead, to the victors.]

We had barely raised our breast work knee high when we again saw the Indians advancing in great numbers over the hill to our left. They came on boldly till within a long musket shot, when they spread themselves from tree to tree to surround us. We immediately extended a Light Infantry, covering ourselves by the trees and opening a brisk fire from cannon and musketry. The former I don't think could have done much mischief, the Indians were so scattered.

Capt. Gannett, Lt. Bassinger, and Dr. Gatlin, were the only officers left unhurt by the volley which killed Col. Dade. Lt. Henderson had his left arm broken, but continued to load his musket and to fire, resting on the stump, until he was finally shot down towards the close of the second attack and during the day kept up his spirits and cheered the men. Lt. Keyes had both his arms broken in the first attack; they were bound up and slung in a handkerchief, and he sat for the remainder of the day, until he was killed, reclining against the breastwork—his head often reposing upon it—regardless of every thing that was passing around him.

Our men were by degrees all cut down. We had maintained a steady fight from 8 until 2 P. M. or thereabouts, and allowing three quarters of an hour interval between the first and second attack, and had been pretty busily engaged for more than 5 hours. Lt. B. was the only officer left alive, and he severely wounded. He hid me as the Indians approached to lay down and being myself dead, I looked through the logs and saw the savages approaching in great numbers. A heavy made Indian, of middle stature, painted down to the waist, (corresponding in description to Micanopy) seemed to be the Chief. He made them a speech, frequently pointing to the breastwork.—At length they charged into the work; there was none to offer resistance, and they did not seem to suspect the wounded being alive—offering no indignity, but stepping about carefully quietly stripping off our accoutrements and carrying away our arms. They then retired in a body in the direction from whence they came.

Immediately upon their retreat, forty or fifty negroes on horseback galloped up and alighted behind their heads, and commenced with horrid shouts and yells the butchery of the wounded, together with an indiscriminate plunder, stripped the bodies of the dead of clothing, watches and money, and splitting open the heads of all who showed the least sign of life, with their axes and knives, and accompanying their bloody work with obscene and taunting derisions, and with frequent cries of "what have you got to sell?"

Lieut. B., hearing the negroes butchering the wounded, at length sprang up and asked them to spare his life. They met him with the blows of their axes and their fiendish laughter. Having been wounded in five different places myself, I was pretty well covered with blood, and two scratches that I had received in my head gave me the appearance of having been shot through the brain; for the negroes, after catching me up by my heels, threw me down, saying "—n him, he's dead enough!" They then stripped me of my clothes, shoes, and hat and left me. After stripping all the dead in this manner, they trundled off the cannon in the direction the Indians had gone, and went away. I saw them first about dawn on the oxen in their gear, and burn the wagon.

One of the other soldiers who escaped, says they threw the cannon into the pond, and burned its carriage also. Shortly after the negroes went away, one Wilson, of Capt. G.'s company crept from under some of the dead bodies, and hardly seemed to be hurt at all. He asked me to go with him back to the Fort and I was going to follow him, when, as he jumped over the breastwork, an Indian sprang from behind a tree and shot him down. I then lay quiet until 9 o'clock that night, when De Cony, the only living soul beside myself, and I started, upon our journey. We knew it was nearest to go to Fort King, but we did not know the way, and we had seen our enemies retreat in that direction. As I came out I saw Dr. G. lying stripped amongst the dead. The last I saw of him, whilst living was kneeling behind the breastwork with two double barrel guns by him, and he said "Well, I have got four barrels for them!" Capt. G. after being severely wounded, cried out "I can give you no more orders, my lads, do your best!" I last saw a negro spurn his body, saying with an oath, "that's one of their officers." (G. was dressed in an Indian's dress until the next day, when we got an Indian on horseback, and with a rifle, coming up the road.—Our only chance was to separate— we did so: I took the right and he the left of the road. The Indian pursued him. Shortly afterwards I heard a rifle shot, and a little after another. I concealed myself among some scrub and saw Palmetto, and after a while saw the Indian pass, looking for us. Suddenly, however, he put spurs to his horse, and went off at a gallop towards the road.

I made something of a circuit before I struck the beaten track again. That night I was a good deal annoyed by the wolves, which had secured my head, and came very close to me; the next day, the 26th, I reached the Fort.

Agreeably to previous notice, a meeting of the citizens of Gates county, was held in the Court-House in the town of Gatesville, on Tuesday the 4th of April.

On motion, Col. Barnes Goodman was appointed Chairman, and Willis F. Riddick, Esq. Secretary.

The object of the meeting was then explained in a clear and forcible manner, by Dr. John B. Baker.

On motion, the following persons were appointed a Committee to prepare Resolutions for the consideration of the meeting, viz: John C. Gordon, Henry Gilliam and John Walton, Esqs.

The Committee having retired for a short time, and performed the duty assigned them, returned and presented the following Report:

It is the opinion of your Committee, that the efforts now making by Northern Fanatics to subvert the domestic institutions of the Southern States—and inevitably to produce civil war and a dissolution of the Union—make it the duty of every Southern man to take an active part in the approaching election of President of the U. States. The election of some man not opposed to Southern interests, therefore, is now of vital importance to us.

We are opposed to the election of Mr. Van Buren to the Presidency, because his course in relation to the Missouri question, his admission, that Congress has power to pass laws to take from the citizens of the District of Columbia, their property, and because his votes in favor of the high Tariffs of 1824 and '28, prove that he is inimical to the best interests of the Southern States.

We repose the most unbounded confidence in the integrity of Judge White, of Tennessee, a native of North Carolina. We believe his talents as a citizen and a statesman are unquestioned even by his enemies, and all his interests and feelings are identified with our own.

Resolved therefore, That we pledge ourselves to support HUGH L. WHITE for the Presidency of the United States, by all honorable means.

Resolved, That we will support JOHN TYLER of Virginia, as Vice-President.

Resolved, That we approve the nomination of EDWARD B. DUDLEY, of Wilmington, for the Office of Governor of this State.

Resolved, That the Chairman of this meeting appoint three Delegates to meet those who may be appointed by the other counties composing this Electoral District, in the town of Hertford, on the second Tuesday in June next, to appoint an Elector for the District, to be placed on the White and Tyler Ticket.

Resolved, That the Chairman be authorized to appoint (hereafter) a Committee of Vigilance in each Captain's District in this county, and that they be requested to cooperate and exert themselves to carry into effect the proposed measures.

Resolved, That the Chairman and Secretary sign the proceedings of this meeting, and that the Editors of the Edenton Gazette, Raleigh Star, Register, Herald of the Times, Norfolk Herald and Beacon, be requested to give these proceedings an insertion in their respective papers.

The foregoing Resolutions were separately read for the consideration of the meeting, and were unanimously adopted.

The Chairman then appointed John C. Gordon, Henry Gilliam and Richard H. Parker, Esqs. as Delegates, under the 4th Resolution.

On motion, the meeting then adjourned to meet again at the same place, on the third Monday in May next.</