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CONGRESS OF THE UNITED STATES,

House of Representatives.

Tuesday, Jan. 5, 1802

DEBATE

On the Apportionment Bill, on a motion made by Mr. Bayard to strike out 33, and insert 30 000

[Concluded]

Mr. Bayard said he should beg the indulgence, before the question was taken, of a few observations in reply to the arguments of the gentlemen opposed to him. The peculiar interest in the subject which attached to his State would apologize for the trouble he had given the Committee. It had been said that Delaware ought to be satisfied, that if she had ground to complain of the want of a complete representation on this floor, the equality she enjoyed in the Senate and her weight in the election of President, were juster grounds of umbrage to the larger States. He was surprized at such an intimation.

The Constitution had settled the political pretensions of the States, and each one had a right to insist upon the full advantages which justly belonged to it on constitutional grounds. Delaware was satisfied with the Constitution; but it was not to be expected she would yield a pretension she could rightfully claim.

In the present instance, what was insisted on he could demonstrate to be equitable.

It was only asked that the State should be represented in the proportion she was taxed, in the proportion she supported the common burthens of the Union.

In the apportionment of the direct tax lately levied upon the United States, the quota of Delaware relative to Virginia was as 1 to 11, relative to Pennsylvania as 1 to 7. The apportionment of representation upon the ratio adopted by the present Bill was in relation to Virginia as 1 to 22, and in relation to Pennsylvania as 1 to 18.

He would appeal to the candour of the House, if it could be just that the proportion of taxation should be double the proportion of representation. The Constitution had connected them, and evidently contemplated their proceeding in the same progression.

He could not help indulging a hope, that neither the apathy nor the interests of the larger States would induce them to oppose the justice of a case which was so glaring.

He would add on this head, that the white population of Virginia in relation to Delaware, did not exceed the proportion of 9 to 1; and he did not believe that a greater proportion was paid by Virginia of the taxes derived from excises and the duties upon imports, which composed the principle pecuniary burthen of the United States.

In the militia requisitions, Delaware stood in relation to Virginia as 1 to 10, in relation to Pennsylvania as 1 to 9. In short turning his views to every object, he could discover no equality between the burthens supported and the representation allowed to Delaware by the present Bill. On the contrary, the ratio of her burthens was in all cases double, and in many more than double that of her representation.

Some gentlemen had asserted that it was indifferent to what part of the nation the unrepresented fraction belonged, whether to a small or to a large State. If, said Mr. B. we had interests as a nation only, and not as States, the assertion might be correct. But was he to be told whether it was the same thing to Virginia, whether she had 22 or 23 members, as it was to Delaware whether she had one or two? With a view to every State consideration the loss of a member to Delaware was equal to the loss of 11 to Virginia. Suppose Virginia to have 22 representatives, Delaware two, and the other States in their several proportions, and a general agreement is made to strike off one-half of the representation. The loss to Delaware would be one member, to Virginia eleven, and the other States in proportion.

Mr. B. said, he might console himself and comfort his constituents, if it were practicable, and gentlemen were disposed to equalize the ratio of taxation with that of representation. But of this he had no hope, either as a thing feasible under the Constitution, or as a thing to which the House would be ever brought to consent. He had no other resource, than to rely that the magnanimity of the larger States, would protect from injustice and oppression their smallest and weakest sister.

Mr. B. said, he was not governed in the opinion he had adopted in relation to the ratio by the consideration solely of State interest. His great object was to augment the members of the representative branch of the government. He believed that the strength of the National Government existed in that House, and that by encreasing the members of this House, its weight and strength were augmented. He confessed it to be his object, to make the general government so strong as to be able with equal certainty to controll the largest as the smallest States. It was now able to govern the small States, but if one of the largest should deny and resist the authority of the Union, he doubted the ability of the government to enforce obedience to its laws. He had occasionally advocated an encrease of executive authority. He had then been charged with views unfriendly to republicanism. He was now contending for an encrease of the weight of the popular branch of the government.

He was actuated by the same motive, which had always induced him to give his support to the executive. His uniform object had been and would continue to be, to maintain the independence of the general government, and to render it efficient enough to curb the ambition and to repress the dominating spirit which was inseparable from the large States. His voice had never been to vary the relative powers of the executive and representative branches; but generally by encreasing the strength to confirm the stability of the government. An opportunity now presented itself of promoting the same object by augmenting the weight of the popular branch; he embraced it with more zeal than he had ever felt in the support of executive prerogative. He rejoiced in an occasion which enabled him to manifest, that the true object of his views was not inimical to the equal rights and constitutional liberties of his country.

He was firmly convinced that the House of Representatives was, and necessarily would be the main pillar of the general government. While this branch retained the attachment and possessed the confidence of the nation, the government would endur , but if any State could succeed in weaning the affections of the people from this House and transferring their confidence exclusively to the States, the government would perish.

He wished to enlarge the field of action and employment under this government. So small a number occupy the ground upon the floor of this House, that the talents and ambition of the mass of men aspiring to distinction are directed to State objects, and seeking the aggrandizement of the States, eventually become hostile to the general government. The representation of the country was too sparce, it was not sufficiently united and bound to the bosom of the nation.

The same sympathy and confidence did not subsist between a representative and constituent when widely separated. Under the State governments, the representatives proceeded from every neighbourhood. They were well known, connected by common interests and friendship, and thence enjoyed the entire confidence of their constituents. Whereas a representative in this House is known by name only to the greater number of those who elect him.

This evil will always remain, but it may be diminished. A gentleman from Virginia (Mr. Randolph) expressed his apprehensions, that by augmenting the members of this House, the splendour of the State Legislatures would be obscured, and they might ultimately dwindle into insignificancy. Mr. B. said, that it was certainly strange, that when Virginia alone had a House of representatives composed of 190 members, such an apprehension should be expressed, when it was proposed to allow to all the United States only 156. In her State legislature Virginia would have 190 Members, when her representation here would consist only of twenty four.

It had been insinuated that he was unfriendly to the State governments. He declared the insinuation to be without the smallest foundation. On the contrary his principles and conduct demonstrated his attachment to those governments. The safety of the State governments reposed upon the strength of the general government. The Constitution expressly guarantees the integrity of the States. He could conceive of no motive which could lead to the abolition of the State governments. Suppose them abolished, what advantage would the inhabitants of a small State derive. They are melted down into a national mass, but they acquire nothing which they did not enjoy before, nor any thing which every one does not enjoy in common with them. The insinuation supposes some greater advantage, or greater honor in living in a large State than in a small one. Of any such thing, he was not in the smallest degree sensible. He felt the same satisfaction, and was quite as proud to represent the State of Delaware, as he could be to represent a district of Virginia. If the case were otherwise, and he could feel any little pride in saying he belonged to a large State, it was a feeling which a trifling change of place might gratify. But, (said Mr. B.) the people of the small States have as great a stake in their governments as those of the large.

Upon those governments depend their peculiar laws, their moral and religious institutions, which have fashioned their manners, and habits, and sentiments, and opinions. It is impossible to imagine that the people of any State, would be willing to see the system of rights & obligations, of wrongs and remedies, belonging to private life, which has been hallowed and consecrated by antiquity and usage, liable to be broken down by the powers of a general government.

Is this supposed too to be the project of Eastern gentlemen? For his part he was infinitely more apprehensive, that the disposition of the Eastern people was to separate, rather than politically to amalgamate themselves with the Southern.

Taking an opposite view of the subject, Mr. B. said, he could discover motives, which might lead the aspiring men of large States, to seek the depression of the general government. The general government removed, they stood like the lofty oaks among the brambles of the forest.

All experience had shewn political bodies, equally with individuals, stimulated or impelled by the passion of aggrandizement. It was possible for the great states to see an interest in the depression or dissolution of the federal union; but it was impossible for the small states to derive an advantage from the abolition of the state authorities. The danger therefore to be apprehended was a dissolution of the union by the large states, and not a consolidation by the small.

It had been denied by a gentleman from Virginia (Mr. Randolph) that this house represented the people of the United States; and asserted that we are to be considered on this floor as the representatives of the people of the states. By this he understood that the representation of each state were to be considered as representing only the people of their own state. This doctrine he considered as repugnant to the nature of the government, and tending to efface its leading feature. The gentleman had recourse, for the support of his position, to the words of the constitution which declare, that the representatives should be chosen "*by the people of the several states.*"

In fact, by the laws of the several states, and particularly of Virginia, the representatives were chosen in districts, and if there was any thing in the gentleman's argument, the members from that state ought not to be severally considered representatives of the state, but of the particular districts for which they were chosen.

Mr. B. here quoted the provisions on the same subject of the constitutions of Virginia, N. Carolina and Pennsylvania, and remarked that the expressions more strongly confined the election of the members of the state legislatures to persons residing in the several counties, and observed that there would be the same propriety in contending that the members of the state legislatures were not to be considered as representatives of the whole state, but each of the respective county by which he was chosen.

Much had been said about consolidation, with little attention to the subject to which the term was applied. Nobody could deny that the general government was a consolidated government, to the extent of its powers. The states remained unconsolidated, but the powers delegated to the general government were consolidated. Within the sphere of its power there was the same unity of action as in the state governments. The government was created for national purposes & was constructed on national principles. Its powers are limited, but in the exercise of its powers it acts as a national and not as a federative body. Mr. B. here read the letter of General Washington to the President of the old Congress, announcing the adoption of the constitution, and particularly remarked on the following: "In all our deliberations on this subject we kept steadily in view, that which appears to us the general interest of every true American, the consolidation of our union, in which is involved our prosperity, felicity and safety, perhaps our national existence."

The sentiments of the letter maintained the doctrines for which he contended. It was the source of peculiar gratification to have the support of an authority which once commanded universal respect, and for which his own reverence had not in the smallest degree abated.

Mr. B. said he had been reproached with a wish to encrease the power of the government; that failing to encrease the power of one branch, as a last resort an attempt was now made to encrease that of another. Nothing could be more unfounded than this charge. The measure he proposed added nothing to the powers of any branch of the government. It was simply to encrease the number of hands, in which the existing power was to be deposited. The point of difference between him and the gentleman opposed to him, was that he was desirous of committing the powers of the government to a greater and they to a smaller number. He wished to multiply the representatives of the people; they to diminish. Whether the house consisted of 100 or of 150 members the powers of the government remained the same, though probably a power exercised by 150 would be more likely to be attended with effect that if supported only by 100.

Mr. B. concluded with a brief recapitulation and application of the general points of the argument.

Mr. Mitchell said he hoped the motion would not prevail. He wished the interests, the rights and even the feelings of the people of America to be fairly and fully represented. But he was by no means persuaded that this desirable object would be in any sensible degree promoted by the motion before the committee. The bill contemplates the establishment of the ratio of representation, which the citizens of the United States shall have in this branch of the National legislature. Various ideas had been entertained and stated concerning the nature and object of this legislature. It had been urged by one gentleman that states only were represented here. It had been contended by another that the members of this House, though chosen by states, ought to be totally detached from state-influence. He believed neither of these conclusions were strictly correct. His own opinion was that the federal constitution was an institution for which there was no example in history. In vain was any government like it looked for among the republics of ancient Greece. The Achæan league was indeed a noble tho' inefficient attempt at something of the kind. In modern Italy, warfare and contention had generally kept the republics at variance, and the struggles between the rival powers of Genoa and Venice, had manifested so uneasy a spirit abroad as the Athenians and Florentines had shewn at home. Even among the Swiss and the Grisons, there was a confederation of states, and not a Representation of them in a general council. The cantons of Helvetia were a mere confederacy of republics, that is, a leaguing together of distinct and independent sovereignties, by compacts and treaties for the safety of the contracting parties. But there was no general council of the nation.—In the United Netherlands, some approach towards a form of government had been made, yet the system was immature and imperfectly elaborated.

In America the organisation of the political system was widely different.—Here different colonies had been settled and provinces conquered under European governments. They grew and prospered as dependants upon a transatlantic sovereign. In process of time, oppression threatened them with her iron rod, and they declared with one voice, they would be free. Instantly each colony and province was erected into a free and independent commonwealth.—The pressure of external foes forced them all to combine in a common cause. A sense of impending danger made it necessary for all those newly-erected sovereignties to associate for the purposes of general defence. They bound themselves by an article of agreement for that great purpose, and associated themselves as well as they could. But the coalition was too lax and incoherent to endure long. As soon as peace was made, and the fleets and armies of the enemy were withdrawn, the Congress was found to be nerveless and without power.

Another attempt was made to meliorate the plan of the general government. And the result of that effort, is the present happy and unexampled constitution under which we are assembled; a form of policy without parallel in the annals of nations. For here, the commonwealths of America, reserving to themselves the right of sovereignty as to local, individual, and internal affairs of *each*, send representatives to this House, to deliberate upon the more extended, general and exterior matters which are interesting *to them all*. It is only in relation to this latter object that the establishments and powers of the House of Representatives ought to be contemplated. And this object was particularly defined in the constitution of the United States. So far as power was given by that Magna Charta of our liberties and no farther, did the legislative powers of this body extend. The great regulations by which the security of our reputation, our property, and our lives were guarantied, rested chiefly with the state legislatures; and he was happy he had left all those invaluable rights provided for, and well preserved at home. For the regulation of the principal part of territorial and local concerns, involving the right of individuals and the relation of these to things, as well as the modes of preventing and punishing crimes. He was perfectly satisfied that the requisite power and wisdom resided in the respective states: and there it ought to reside. How then is this House constituted? By the states, whose qualified inhabitants chose representatives. For what object is it constituted? To deliberate upon those general questions merely, which are expressed in the constitution, and are truly of a federal, universal or national nature.

He considered such a government as of a new and peculiar construction. It had been called by some *federal*; he questioned the correctness of that term, as both the word *federal* and *confederated*, if regard was had to their etymology and derivation, meant a connection of independent states by treaties. By others it had been termed a sort of consolidation, as respected a number of great and leading objects. He believed that there might be some hesitation at admitting either of these terms. It was certainly not a confederacy of states; and it was no less evident it was not a consolidation. This peculiar government for which, as far as his recollection went, there hardly existed an appropriate name, seemed to him a kind of political partnership, where each of the parties concerned, besides a separate interest, has a joint interest in the common stock.

Now, these conjoint interests are so blended and mingled together, that in the important points of general welfare and common defence, there is a community extending to the whole; and so analagous in the predominating benefits to be derived from this organisation, that on the great outlines of the subject, there is a remarkable similitude of sentiment. From the limited extent of the constitutional powers of this House, a very small Representation, (that of thirty thousand) had been thought sufficient by the framers of the constitution. And from the community of interest in the greater part of the subjects delegated to them by the states, there would be seldom a difference about principles, but the variations, whatever they were, would exist, in the modes and forms of doing things.

Considering how comparatively few things this house had to attend to, he thought that ratio a large one. At the close of the former census, a preceding Congress had thought so. They even determined to lessen it, by declaring that 1 for every 33,000 was enough. He believed the interests and liberties of the citizens were sufficiently secured at that ratio. If he had any reason to doubt this, he would consent to enlarge the number to the utmost of the limits of the constitution. But ten years experience had shewn that the representation had been not only equal, but adequate. He had not heard of complaints abroad upon this subject. He believed the citizens were satisfied with it. He thought that public opinion and public confidence had been so long accustomed to the ratio of 33,000 to one representative, that it was