

Remarks of Dallas, of PENN.

Extracts from a speech, made by Mr. Dallas in the United States Senate, on the 25th of April, 1832, upon the Apportionment Bill, and the amendment to it proposed by Mr. WEBSTER.

The bill sent us from the House comes recommended to our partiality by very strong considerations. The rule of apportionment it prescribes was, in the first place, coeval with the formation of our government. It was enunciated by the earliest congress after the adoption of the Constitution:—by men who had participated actively in all parts of the country, in discussing, approving, amending, and perfecting that invaluable instrument, and in adopting it carefully to the wishes and views of the American people. This rule has been repeated and enforced at every returning census:—has been carried into practical operation for forty years: and has been universally acquiesced in as abundantly impartial and equal. Sir, I do sincerely and solemnly desire to find something permanent in our government: and I especially desire to find this quality of permanency and fixedness in a rule on which depend the quantum and equality of popular representation. Nor can I forbear to express my regret and surprise that an attempt to unsettle and overthrow what has been so long established and so universally conformed to, should emanate from the precise quarter whence it does come.

Sir, the rule of the bill was not only settled long ago, but it was *reflectively* settled by our best and wisest statesmen. General Washington deliberated much: he deliberated in association with Jefferson and Hamilton: and their joint and laborious and enlightened and pure deliberations terminated in the formal adoption of a process, as the only constitutional one which has ever since been applied to apportionment. Metaphysical refinements cannot give us a safer or sounder rule than the one furnished by such men, under such circumstances, for the practical conduct of our institutions. I am unwilling to abandon their rule, unless conclusively satisfied, not merely that it is not in itself perfect—for perfection I anticipate from no human effort—but unless conclusively satisfied that it is positively unconstitutional, or vicious in tendency.

Another recommendation of the bill, Mr. President, is powerful with me. Its rule has become familiar to, and is clearly understood by the great mass of the people. Its application, its results, its imperfections, are all known and appreciated. Now, sir, I am not averse to wise and salutary innovations, suggested merely by learned and ingenious men: no doubt our system may be gradually improved by them: but there are some subjects on which I can sanction no change which is not preceded by the expression of popular sentiment. If the American people have for forty years witnessed the operation of the rule of apportionment once more adopted by their direct representatives: if, as I believe, they fully comprehend its character and effect: and if, as we all know, they have cheerfully and every where acquiesced in it—I cannot, I will not, agree to take from the people a rule with which they are thus content, merely to introduce another more scientific and plausible, devised by a strong and ingenious understanding. The subject is too deeply interesting to them, to the exercise of their legitimate control over the government—to their rights, their convenience, and their power. When they ask a rule different from the one upon which they have acted—then, and not till then, shall I feel disposed to prescribe it.

What, sir, is the rule of apportionment incorporated in the bill? To my mind, it is a practical construction of the constitutional phrase "apportion:—Fix the number of people which shall constitute a constituency, and then allot to each State one representative as often as its population contains that number or constituency. In other, and more common language, determine your ratio, and apply it to the respective States. The word "ratio" is assailed: but it was used and used with this meaning, on this very subject, in almost every State Convention to which the Constitution was submitted for approval. It is the "one common divisor," deemed essential by Washington, in his message to congress of 1792. The fixing upon this constituency, this ratio, this common divisor, is the first definitive legislative act in providing for the apportionment of representatives. The structure of every law upon the subject attests this. The number of the representative body is a result, rather than a basis, of the process: and hence, heretofore, that number has never been expressly mentioned in the acts of congress.

But, Sir, we are told that this rule eventuates in fractions, or remainders, or residuums! I deny their existence. The constitution recognizes nothing less than a constituency, for a distinct representation. Any number of people less than the agreed constituency is *quoad hoc*, nothing. Fractions cannot be legally known to exist. They are nonentities: analogous, perhaps, in some degree, to an association of individuals, not yet entitled to recognition or lawful powers by an incorporating charter. Not, sir, that these ideal fractions are unrepresented in your government: every individual citizen in the whole country is now, and always has been, fairly represented in the popular branch of congress. Any one State may have more or less representatives—may have seven, or six, or five: but have what number she may, that number will fully represent all her population.

I am attached, then, Mr. President, to the rule of the bill, on account of its venerable age, on account of its paternity, and on account of its simplicity. And in relation to the last characteristic, by which my preference is excited, I beg leave to adopt the principle of Mr. Jefferson, when he

says thus: "Laws ought to be made for men of ordinary understanding, and should therefore be construed by the ordinary rules of common sense. Their meaning ought not to be sought for in metaphysical subtleties which may make any thing mean every thing or nothing, at pleasure." The old rule invokes for its comprehension nothing more than sound common sense: that of the Senator from Massachusetts, however plausible, profound, or scientific, has exacted from his industry and skill, very many calculations, and many more explanations, before it could be understood by those whom I address, and will certainly never be embraced by the ordinary understandings of the great mass of our fellow-citizens.

The objection to any longer adherence to the established rule of apportionment is, simply, as I understand the argument, sir, that it is unconstitutional, because, first, it works inequality, and secondly, it does not "apportion representatives among the several States according to their respective numbers."

Does the rule itself work inequality? Applying it to unequal, and unequally varying numbers, the results are almost necessarily unequal. These results, however, are not consequences of the rule, but of the circumstances which accompany the objects to which it is applied, and by which the fairness and equality of the rule are controlled and affected. It neither increases nor diminishes those supposititious creatures denominated fractions. All the constituencies of the rule itself are perfectly equal: and in this respect it is preferable far to the substitute proposed by the Senator from Massachusetts, by which unequal constituencies are to be equally represented. It is not pretended that the rule is perfect in its effects: all agree that such a rule is undiscoverable: but it is pretended, nay, it is confidently believed, that its results are and will be in no degree more unequal, more unfair as regards the distribution of political power among the several States, than the one proffered in its place, or any other that can be devised. It was urged, vehemently and persuasively that the old rule had worked injuriously to the smaller States: and much ingenuity was expended to make this manifest by combining and shifting and interlocking what are termed fractions. I put against this theoretic notion the positive and incontrovertible language of experience: and I ascertain it thus:—Take *five* of the large States, and *five* of the small States, and let us see what has been the aggregate of the fractions, of each class of States, at the period of each apportionment: by adding up these aggregates, we shall have the amount of fractions which fell, throughout the four years past, upon the five large and five small States, respectively: and the difference will enable us to determine whether, by fractions, the larger or smaller States have suffered most. The following is the result:

1790 Virginia, Pennsylvania, Massachusetts, North Carolina, and New York, had an aggregate of fractions	48,533
1800 do. do.	101,660
1810 do. do.	50,442
1820 do. do.	73,625
1830 do. do.	102,183
	376,863

1790 Rhode Island, Vermont, N. Hampshire, Delaware, and Georgia, had an aggregate of	59,176
1800 do. do.	73,909
1810 do. do.	20,593
1820 do. do.	75,079
1830 do. do.	103,108
	333,775

Difference against the large States 43,028

Whatever, then, sir, may be the apparent injury inflicted at any one period upon the smaller States, the operation of the existing rule of apportionment has, upon the whole, throughout the entire term of its trial, been advantageous to them, and comparatively injurious to the large States.

Let us, however, see whether the project of the amendment be exempt from the imputation of a tendency to inequality or disproportion. The question is easily solved by the favorite rule of three.—The amendment, as carried out in the calculations of the select committee, awards to the State of Delaware two representatives, and to the State of Missouri three. If Delaware, in the first place, be allowed two members, for a population of 75,432, what number of members should be allowed to other States for their populations respectively? An answer to this inquiry will at once ascertain the equality or fairness of the amendment: I give it thus:—

	Should be	She is allowed
1. New York for 1,918,555	50	39
2. Pennsylvania 1,318,072	35	27
3. Virginia 1,023,503	27	21
4. Ohio 935,882	21	19
5. N. Carolina 639,747	17	13
6. Kentucky 621,832	16	13
7. Tennessee 625,263	16	13
8. Massachusetts 610,407	15	13
9. S. Carolina 455,025	12	9
10. Georgia 429,811	11	9
11. Maryland 405,843	10	8
12. Maine 399,435	10	8
13. Indiana 313,030	9	7
14. New Jersey 319,922	8	6
15. Connecticut 297,365	7	6
16. Vermont 280,657	7	6
17. N. Hampshire 260,326	7	6
18. Alabama 262,508	6	5
19. Louisiana 171,904	4	3
20. Illinois 157,147	4	3
	296	234
	234	
	62	

Thus it is conclusively shown that if Delaware be entitled to two representatives for her population, the other enumerated States are entitled to two hundred and ninety-six,

in the proportions I have mentioned. But the amendment in fact, allows to these twenty States only two hundred and thirty-four members:—and the rule thus obviously works to their injury, leading to a loss by them, when compared with Delaware, of no less than 62 members!

But it is urged that the bill is unconstitutional, because, in the next place, it does not, as the instrument expressly directs, "apportion representatives among the several States according to their respective numbers!" To my mind, it does apportion with peculiar directness and simplicity. It "assigns" or "allots" to each State one representative for every constituency, ratio, or common divisor, its population may include. So many constituencies, so many representatives. This, however, is thought too regardless of fractions: the spirit of the Constitution, as distinguished from its mere words, is invoked, and the new process is represented as more compatible with that spirit than is the old one. The Constitution, then, means what it doesn't express: or, at all events, an explanatory phrase is ingeniously superadded to its provisions, to eke out a meaning not otherwise perceptible. This liberal mode of treating that Sacred Charter will hardly be agreeable to all whom I address: it cannot suit those who object to free and broad constructions: it certainly purports to be as latitudinarian as any treatment ever heretofore bestowed upon any of its clauses. First we are told, that "to apportion the representatives," &c. means to apportion them "as near as may be"—a qualifying phrase, totally destructive of the absolute and imperative character of the constitutional rule—leaving much, if not every thing, to discretion and varying opinion, and wholly inconsistent with the *entirety* of a constituency. I can find no such words, Mr. President, in the constitution itself, and I do not think them necessary to a full and perfect comprehension, or rather expression, of a distinct meaning. I cannot, therefore, consent to engraft them. Again: the amendment exacts, as the primary term of its process of calculation, the aggregate population of all the States. Does this form any part, inferentially or otherwise, by implication or otherwise, of the constitutional direction? It is a palpable feature of that consolidation which the instrument repudiates in every article. This solid popular mass is unknown, unrecognized, by the true principles of the confederacy. It could never have been within the contemplation of those by whom the union was formed: and that it is resorted to, in furtherance of the amendment, is a fresh proof to my mind, that the amendment itself cannot be reconciled with the constitution. And again, sir: why is the second term of the calculation, by which alone the results of the amendment can be produced, stated to be the agreed number of the representative body? I have already adverted to the fact, that the number of the House is a result merely of prior data:—that it is the consequence of your own calculation:—that it is not a basis for any process, and is never expressed in any act as a legislative choice. All these devices and interpolations, and fictions, are unnecessary to the bill, and inconsistent with the constitution: they are essential, however, to the being and movement of the amendment: hence I infer, that this novel project ought to be discontinued.

In conclusion, Mr. President, I must confess myself not satisfied with the effort which has been made to reconcile the amendment, (by which a representative is accorded to every fraction which exceeds a moiety of the ratio, 47,700,) to that clause of the constitution wherein it is declared that "the number of representatives shall not exceed one for every thirty thousand." I believe that "thirty thousand" was designed to indicate the minimum constituency: and yet the amendment will make constituencies by the wholesale, each of which will be less than 25,000! Nor, sir, is it a reply at all satisfactory to this suggestion, that, notwithstanding these inadequate or inferior constituencies, the number of representatives in each State will not exceed one for every thirty thousand. The unconstitutional result is merely concealed, not avoided or even evaded. After applying the ratio of 47,700 to the population of each State, so much of that population as is made to yield representatives is definitively disposed of: it is, as respects the process of apportionment, as it were out of the State: and the residue, or fraction, now the only population, if less than 30,000, cannot be allowed any constituent power whatever. A double ratio, at war with Washington's "one common divisor," may be called for by the system of fractional representation, but does not conform to the simplicity, directness, and true import of the constitution.

Congressional Analysis.

[From the Globe.]

MAY 2. In the Senate, yesterday, Mr. DICKERSON from the Committee on Manufactures, reported a bill, regulating duties on imports and the mode of their payment, which was read and ordered to a second reading. Mr. KING called up the bill and report from the Committee on Manufactures, respecting the disposition of the Public Lands, and he moved their reference to the Committee on the Public Lands. After some discussion of this motion, it was laid on the table, for the present. The General Appropriation Bill, returned from the House, was taken up, and the Senate receded from certain amendments. The Senate determined to insist on the amendments making appropriations for the removal of the bar from the east pass of Pascagoula river, and for deepening the Pass au Heron. On the motion to recede from the amendment striking out the appropri-

ation for the outfit to a Minister to France, a debate arose, in which Messrs. SMITH, FORSYTH, TYLER, and MANGUM supported the motion, and Messrs. CLAYTON, TAZEWELL, CHAMBERS, and MILLER opposed it, and the motion prevailed by a vote of 23 to 21. The motion to insist on the amendment, striking out the appropriation for the pedestal statue of Washington, was agreed to. The amendment having been disposed of, the Senate adjourned.

In the House of Representatives, owing to the continued indisposition of Mr. KEY, the trial of Gen. Houston was postponed until to-morrow at 11 o'clock. Mr. PLUMMER resumed his remarks upon the subject of the charges made against the Collector of the port of Wiscasset. Before he had concluded, the House passed to the consideration of the orders of the day. The amendments proposed by the Senate to the bill providing for the vaccination of the Indians as a preventive of the small pox, were concurred in. The House took up the revolutionary Pension Bill. The amendment offered by Mr. WICKLIFFE, on a former day, to extend the provisions of the bill to those who fought in the Indian wars of the West, up to 1795, was advocated by Messrs. DANIEL, McKENNON, ALLAN, LETCHER, BARRINGER and WICKLIFFE, and opposed by Mr. J. DAVIS, and was lost, ayes 92, noes 109. Mr. BLAIR, of South Carolina, then moved an amendment, for the purpose of including in the provisions of the bill, the militia who fought the battles of King's Mountain and Guilford Court House, which was lost, 46 yeas, 111 nays. Mr. BELL then moved an amendment granting to Captains and officers of superior rank, who served two years or more in the revolutionary army, two sections of land—to all commissioned officers below the rank of Captain who served for the same period, one section of land, and to non-commissioned officers and privates who served for the same period, half a section of land. To Captains and officers of superior rank who served less than two years and more than nine months, one half the respective quantities of land above named; and to those who served less than nine months, one quarter of the above proportion. This amendment was lost, ayes 51, noes 122. Mr. LETCHER then moved an amendment including those who were engaged in the defence of the Western frontiers from 1775 up to 1783 in the provisions of the bill, which was adopted. The amendment made in Committee, striking out six months and inserting three months, as the least period of service for which a person should be paid a pension, was concurred in, ayes 93, noes 73. Mr. CRAIG moved to strike out the section repealing the restriction of property which had been added in Committee, and insert instead a limitation of property to \$1000—beyond the possession of which, no applicant should receive a pension—which was lost—ayes 73, noes 102. Some other amendments made in Committee were concurred in without a count. Mr. LEWIS moved an amendment granting seven years pension to the widows of those who, if alive, would be entitled to the benefit of the bill; was lost ayes 29, noes 133. Mr. L. CONDRICK moved the addition of several sections to the bill providing for the widows of those, who, if living, would have been entitled to the provisions of the act of 1823. This amendment was cut off by the previous question which was moved by Mr. J. DAVIS, and sustained—ayes 91, noes 60. The main question was then taken on the engrossment of the bill, and carried. The House, at a few minutes past five o'clock, adjourned.

MAY 3. In the Senate, yesterday, a message was received from the President of the United States, transmitting two treaties concluded between the United States and the Government of Mexico. The resolution reported from the Committee on the District of Columbia, for the appointment of a Committee of three, to consist of two members of the Senate, and one member of the House of Representatives, to frame a code of civil and criminal laws for the District of Columbia, was agreed to. The bill for the establishment of certain Post Routes, and for the discontinuance of others, was taken up, and some of the amendments reported from the Senate Committee, were agreed to. At one o'clock, the consideration of the Pension Bill was resumed, and Mr. HAYNE spoke two hours and a half in conclusion of his speech in opposition to the bill. The general appropriation bill was then taken up, and, on motion of Mr. SMITH, the Senate receded from the amendments disagreed to by the House of Representatives.

In the House of Representatives, Mr. ADAMS, from the Committee on Manufactures, moved that 6,000 copies of the Report of the Secretary of the Treasury upon the Tariff, together with sundry documents accompanying it, be printed, which was agreed to. Mr. DONNISON, from the Committee on the District of Columbia, reported a bill for changing the course of Tiber Creek, and for other purposes. Mr. MERRICK, from the Committee of Internal Improvement, reported a bill to incorporate the St. Francis Road Company, in the Territory of Arkansas. Mr. PLUMMER concluded his speech on the motion of the Judiciary Com-

mittee respecting the Collector of the port of Wiscasset. The engrossed Revolutionary Pension bill, was read a third time. Mr. WILDER, after making some remarks, moved the bill be indefinitely postponed—which was lost—ayes 45, noes 128. The question—shall this bill pass? was then taken, and carried—ayes 128, noes 49. The amendments to the general appropriation bill, returned from the Senate, were taken up and disposed of. An act for the relief of R. G. Morris was read a third time and passed.—The bill making appropriations for sundry Internal Improvements for 1832, was then taken up in Committee of the Whole on the state of the Union. The amendment presented by Mr. VERPLANCK, on a former day, including a large number of objects, was taken up and discussed in detail. Several propositions to amend its items were lost, when, without taking the question upon the amendment, the Committee rose and reported progress, and, at 6 o'clock, the House adjourned.

MAY 4. In the Senate, yesterday, Mr. CHAMBERS introduced, on leave, a bill granting certain lots and parts of lots to the Washington Asylum in Washington city. The Committee on Finance was discharged from the further consideration of the resolution directing that Committee to enquire into the expediency of abolishing the offices of 2d Auditor and 2d Comptroller. The bill establishing certain Post Offices and Post Routes and discontinuing others, was taken up. Some progress was made in the amendments reported from the Committee. Mr. BIRM moved to amend the bill by adding a provision that from and after the 31st of July next, no postage shall be charged on newspapers. Messrs. BIRM and CLAYTON supported the motion, and Mr. GRENBY opposed it. Mr. FORT moved to amend the amendment by reducing the postage on letters to the rate established previously to the late war. Mr. GRENBY took the floor and after speaking more than an hour on the subject, gave way to a motion to adjourn.

In the House of Representatives Mr. WICKLIFFE, from the Committee on the Public Lands presented sundry statements from the Treasury Department, relating to the Report recently made by said Committee, and which were not prepared at the time that it was laid before the House. Mr. CLAY moved that 10,000 extra copies of the Report and accompanying documents be printed. Mr. VANCE proposed an amendment providing for the printing of a like number of the Report on the same subject, made by the Committee on Manufactures in the Senate, which was agreed to, and the proposition thus amended, was adopted. Mr. PORK moved that 10,000 extra copies of the Report of the Committee appointed to examine into the affairs of the Bank of the United States be printed. The motion was objected to. Mr. PORK moved to suspend the rule, which was decided in the negative—Yea 119, Nays 67—two thirds being necessary. Mr. PORK, from the Select Committee to whom was referred the Apportionment Bill and the amendment of the Senate thereto, made a Report adverse to the Senate's amendment, both as to the constitutionality and expediency, which was directed to be printed, and the subject was made the special order for Monday next. Mr. E. EVERETT, from the minority of said Committee, gave notice that a counter Report was in a state of preparation. Mr. MERRICK offered a resolution for improving the comfort and healthiness of the Hall of the House, which, after a modification moved by Mr. TAYLOR was adopted.

CASE OF GEN. HOUSTON.

General Houston, attended by his Counsel, Mr. KEY, was placed at the Bar. Mr. KEY resumed his argument in defence of the accused, which he finished after speaking about two hours. Gov. Houston then rose, and expressed a wish to be heard in his own defence, to which the assent of the House was given. He then expressed a preference to proceeding to-day, but on the motion of Mr. DONNISON, who suggested that the business of the District of Columbia was assigned for this day; further proceedings in the case were postponed to Monday next, 2 o'clock.

MAY 5. In the Senate, yesterday, the bill authorizing the President to compromise and settle the claims of the United States, on the Farmers' and Mechanics' Bank of Indiana, was read a third time and passed. The bill for the settlement, by compromise, of claims of the United States upon the securities of the late Thomas H. Smith, was passed. The bill providing for ascertaining the northern boundary of Ohio, was read and ordered to a second reading. Several private bills were introduced. Mr. DICKERSON gave notice that on Monday next, he should call up the bill reported from the Committee on Manufactures, appropriating for a limited time, the proceeds of the sale of the public lands. Mr. KING moved that the consideration of his motion for the reference of that bill, to the Committee on Public Lands, be now resumed, which motion was rejected by a vote of 17 to 20. The post route bill was taken up. Mr. FORT withdrew his amendment, reducing the postage on letters. The question being then on Mr. BIRM's amendment, abolishing postage on newspapers, Mr. GRENBY resumed and concluded his remarks in opposition to the amendment, and in reply to Mr. CLAYTON. Mr. HOLMES followed in support of the amendment, and, without taking the question, the Senate adjourned over to Monday next.

In the House of Representatives, Mr. MERRICK offered a resolution providing for the adjournment of the House over from Friday next to Monday, for the purpose of carrying into effect the improvement of the Hall proposed by his resolution yesterday—which was carried. The SPEAKER laid before the house the annual return from the Treasury Department of the commerce and navigation of the United States, which was laid on the table and ordered to be printed. On motion of Mr. PORK, the