

Remarks of Dallas, or 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 to 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 *reflectingly* 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 however 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 its *if 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 *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 *quod 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*!” To my mind, it does apportion with peculiar directness and simplicity. It “*assigns*” or “*allocates*” 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 don’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, & 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 engrave 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 required 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 *projet* ought to be disengaged.

1790 Virginia, Pennsylvania, Massachusetts, North Carolina, and New York, had an aggregate of fractions 48,583

1800 do. do. 101,669

1810 do. do. 50,442

1820 do. do. 73,635

1830 do. do. 102,483

—376,863

1790 Rhode Island, Vermont, N. Hampshire, Delaware, and Georgia, had an aggregate of 59,176

1800 do. do. 79,909

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 based only
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 16 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 343,030 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

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 “*allocates*” to each State one

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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 don’t *express*: or, at all events, an explanatory phrase is ingeniously superadded to its provisions, to eke out a meaning not otherwise perceptible.

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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 required 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.

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