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RACE, REPRESENTATION, AND RELIGION:  
THE NORTH CAROLINA CONSTITUTIONAL CONVENTION OF 1835

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## COMING OF THE CONVENTION

In 1835 North Carolina revised its constitution. The fifty-nine year old document which underwent modification had been the product of the Revolutionary outpouring of 1776. Like the constitutions of other American states the North Carolina constitution had embodied the Whig idea of "balanced" government.<sup>1</sup> Richard Caswell, James Iredell, Samuel Johnston, and Willie Jones, representing all shades of Patriot opinion, had had a hand in shaping it. In the best Whig tradition, property was weighed in a Polybian fashion in the two houses of the General Assembly. Franchised freeholders were required to possess stable residence and adequate property as an assurance of the voter's character and attachment to the community. Each county was allotted two representatives in the House of Commons and one in the Senate. The state's several commercial towns were represented in the House by one borough representative each. Together the two houses could appoint officers of the state militia, Supreme Court judges, judges of the Admiralty, the attorney general, the state treasurer, and the secretary of the state. The governor, himself, was elected by the General Assembly annually and could not serve over three successive terms in a six year period. His powers were strictly curtailed. No freeman could hold more than one public office at a time. And, finally, the establishment "of any one Religious Church

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<sup>1</sup>Chilton Williamson, American Suffrage from Property to Democracy, 1760-1860 (Princeton, 1960), 3-19.

or denomination...in preference to any other" was forbidden.<sup>2</sup> The "Declaration of Rights" guaranteed these articles. Citizens had a "natural and inalienable right" to worship God as they pleased. Free elections, the separation of powers, no taxation without representation, fair trial by jury: all were proclaimed as basic to the body politic.<sup>3</sup>

Almost as soon as the 1776 document was ratified it came under criticism. The chief grievance was over the basis of representation in the General Assembly. Like its sister states, Virginia and South Carolina, North Carolina had been settled in two main waves. The first was the movement of the largely-English immigrants from coastal counties of the colony inland. The second was by way of the Cumberland and Shenandoah Valley trails into the Piedmont uplands. This second movement of immigrants, consisting mostly of Presbyterian Scots and Lutheran Germans, greatly increased the population of western areas of North Carolina in the years immediately preceding and following the Revolution.<sup>4</sup>

These new North Carolinians were virtually isolated from

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<sup>2</sup>Ibid.; see also the "Constitution of North Carolina, Adopted December 17, 1776," reprinted in the Proceedings and Debates of the Convention of North Carolina (Raleigh, 1836), 412-8.

<sup>3</sup>See the "Declaration of Rights" and the "Constitution of North Carolina," reprinted in Debates (as hereinafter referred to), 407-18.

<sup>4</sup>Clarence Clifford Norton, The Democratic Party in Ante-Bellum North Carolina, 1835-1861. Volume XXI in The James Sprunt Historical Studies (Chapel Hill, 1930), 8-9. See also generally Guion G. Johnson, Ante-Bellum North Carolina: A Social History (Chapel Hill, 1937).

their brethren in the East. The lack of navigable waterways or passable roads made anything but a subsistence economy practically impossible. To remedy the problem Westerners began to advocate increasingly after 1800 state-financed internal improvements. Getting them was something else. The West had to have political power first. By 1830 there were only twenty-six Western counties out of a total of sixty-four. Thus, the West, with a white population much larger than that of the Eastern section of the state, had less representation. The East controlled the government, and it generally opposed disturbing the status quo.<sup>5</sup>

The various state debates over representation, property, and the implications of democratic ideas, helped center the debate for Carolinians. By the late 1820's almost all the states had undergone constitutional change. The old Anglo-Whiggish "balancing of interests" had been steadily yielding precedence to the "rights of the people," to democracy.<sup>6</sup> In a sense it was a second American Revolution. Property qualifications for office-holding and exercising the franchise were giving way slowly to impulses toward political equality

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<sup>5</sup>See Norton, 8-9; see also An Address to the Freemen of North Carolina on the Subject of Amending the State Constitution (Raleigh, 1833), 4; and D.L. Corbitt's maps drawn for his Formation of North Carolina Counties, 1663-1943 (Raleigh, 1950), and the old North Carolina Historical Commission, in Appendices I and II of this paper.

<sup>6</sup>See generally Williamson, and for specific cases in Virginia, Massachusetts, and New York: Merrill D. Peterson (ed.), Democracy, Liberty, and Property (Indianapolis, 1966). The Peterson volume is an interesting and helpful editing of debates of the conventions of these three states.

among freemen. The colonial concepts no longer seemed valid for many of the nation that Tocqueville observed in the 1830's.

North Carolina, in some ways the most unpretentious of states, was in other ways the most conservative. As Chilton Williamson says, "After New York abandoned its first constitution in 1821, North Carolina, with the balanced form of government which the Revolutionary generation had created for the state, had the sole state government of which a Polybius or a Montesquieu could approve."<sup>7</sup> In 1829 there were only two Southern states with a freehold basis for suffrage: Virginia and North Carolina. Virginia significantly modified this basis in 1830, although free white manhood suffrage came only in 1851. North Carolina did not institute a taxpaying basis for suffrage until 1857. It was 1868, however, before the property basis for holding office was modified substantially.<sup>8</sup>

The debate over reforming the constitution was drawn-out and bitter. Led by the eloquent Archibald DeBow Murphey, the reformers pushed for both constitutional changes and internal improvement. In the General Assembly in 1815-1816, Murphey, as chairman of the Senate Committee on Inland Navigation, submitted a report calling for a system of canals and roads,<sup>9</sup> especially intended for the Western regions of the state.

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<sup>7</sup>Williamson, 235.

<sup>8</sup>Ibid., 235-241; see also Peterson editing of the Virginia debates.

<sup>9</sup>Fletcher M. Green, Constitutional Development in the South Atlantic States, 1776-1860 (New York, 1966), 204; see also Report submitted to the Legislature of North Carolina, November 30, 1815. By Archibald D. Murphey (Raleigh, 1815).

In 1819 Senator Duncan Cameron, of commercial Cumberland County, introduced resolutions providing for revision of the basis of representation, popular election of the Governor and sheriffs, biennial elections for legislative sessions, and submitting the resolutions to popular vote. This move was narrowly defeated after rather heated debate.<sup>10</sup> Again, in 1821, the Eastern-dominated General Assembly debated and defeated resolutions calling for practically the same thing.<sup>11</sup>

The twenty-five years from 1790 to 1815 had seen well over 200,000 white inhabitants leave the "Old North State" (which became known, derogatorily, as the "Rip Van Winkle State") for the fresh lands of the Mississippi Valley. White population increased only 120,000 during this period.<sup>12</sup> Westerners argued that only a good system of internal improvements and, as a necessary corollary, better representation, could stem the outward tide. It was an argument adduced as well by the state's leading Federalists, like Murphey and William Gaston, but resisted by many of the Jeffersonian Republicans, like Nathaniel Macon, who cared little for constitutional innovation and even less for government-sponsored internal improvement.<sup>13</sup>

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<sup>10</sup>William K. Boyd, "The Antecedents of the North Carolina Convention of 1835," South Atlantic Quarterly, IX (January, April, 1910), 169.

<sup>11</sup>Ibid.

<sup>12</sup>Joseph Gregoire de Roulhac Hamilton, Party Politics in North Carolina, 1835-1860. Volume XV in The James Sprunt Historical Publications (Raleigh, 1916), 12. See also Appendix III.

<sup>13</sup>William S. Hoffman, Andrew Jackson and North Carolina

In 1822-1823, the movement for reform seemed to crest. Early in 1822 the "Friends of Convention" met in Raleigh with the avowed purpose of putting pressure on the General Assembly to call a constitutional convention.<sup>14</sup> On this important meeting of delegates from Piedmont and Western areas of the state, the rabidly pro-reform newspaper, the Salisbury Western Carolinian editorialized, "The great fundamental principle of a republican government is that all political power rests in the people; and that a majority of the people shall rule. Whenever and however a majority of the people, by themselves or by their delegates are brought together, there rests the power to act; and whatever they do for the whole is binding on the whole."<sup>15</sup>

Despite the tense situation, little resulted. The "Friends of Convention" meeting was divided between an extreme Western faction, possessing few slaves, which favored proposing to the General Assembly that white population be the basis of a new scheme of representation, and a budding slaveholder faction from the Piedmont, which favored a Federal ratio plan. The Piedmontese won out, but the "Report to the General Assembly" produced by this miniature convention

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Politics. Volume XI in the James Sprunt Studies in History and Political Science (Chapel Hill, 1958), 82. This study is particularly good in relating events contemporary with the convention in North Carolina.

<sup>14</sup>Green, 178; see also generally Proceedings of the Friends of Convention at a Meeting held at Raleigh (Raleigh, 1822).

<sup>15</sup>Salisbury Western Carolinian, January 1, 1822.

was shelved by the Legislature.<sup>16</sup> Calls for another meeting of the "Friends" came to naught.<sup>17</sup> The one achievement of the meeting was Western agreement to accept the Federal ratio of representation as the basis for future efforts to "compromise" with the East.

There was very little convention agitation after the failure of the 1823 meeting. National politics--controversy surrounding the figure of Andrew Jackson--appear to have occupied attentions almost completely.<sup>18</sup> It was only after the political confusion of 1824-1830 that reformist sentiment could again be mobilized to any great extent. National politics, however, do not seem to have played a distinct role in this sentiment, at least up until 1835. While the West could support flamboyant Jacksonians like Samuel P. Carson nationally, it was the future Whigs--reforming conservatives--who dominated local politics.<sup>19</sup>

The burning of the Capitol building in 1831 provided Westerners with a pretext and an opportunity to try again for amelioration of their grievances.<sup>20</sup> Legislators from the Cape Fear Valley region of the state had for some time desired to move the seat of government from Raleigh to Fayetteville

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<sup>16</sup>Boyd, 170.

<sup>17</sup>Ibid.

<sup>18</sup>Green, 205; see also Boyd, 171.

<sup>19</sup>Hamilton, 13. Carson broke with Jackson over nullification.

<sup>20</sup>Hoffmann, 81; see also Boyd, 173-4.

at the head of navigation on the Cape Fear River. Raleigh was still a small village, and the Fayetteville folks envisioned an era of both commercial and governmental greatness for their city. In return for Cape Fear Valley support for their reform demands, the Westerners announced their support for moving government functions to Fayetteville. This effort, after two months of debate, lost by slender margins in both houses of the General Assembly.<sup>21</sup>

The election of Westerner David Lowry Swain as Governor in 1832 gave the reformers another opportunity. Swain, as a legislator from Buncombe County, had exemplified a Whiggish mixture of conservatism and progressivism. He was dedicated to improving the lot of the West, especially through his tenacious advocacy of internal improvements. Yet Swain was a staunch conservative when it came to banking, slavery, and popular government. He had never cast a ballot for Andrew Jackson.<sup>22</sup> Indeed, he was a "proper Whig," the first to fill the Governor's chair--and this, largely because the Democratic-Republican legislature could not decide on a "proper Republican" to fill the position.<sup>23</sup>

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<sup>21</sup>Hoffmann, 81.

<sup>22</sup>Carolyn Andrews Wallace, "David Lowry Swain, The First Whig Governor of North Carolina," in J. Carlyle Sitterson (ed.), Studies in Southern History. Volume XXXIX in The James Sprunt Studies in History and Political Science (Chapel Hill, 1957), 64. There is an unpublished doctoral dissertation on Governor Swain by Carolyn Wallace in the library of the University of North Carolina.

<sup>23</sup>Ibid, 65.

Under Governor Swain's leadership the momentum for reform increased. As a friend to the moves for internal improvements he helped engineer two internal improvement conventions in 1833 and in 1834, while winning over numerous luminaries among the Jacksonian party to the idea of some amelioration for the West.<sup>24</sup> Senator Cameron introduced approved reform resolutions for legislative consideration, but once again the effort failed.<sup>25</sup> Forty-eight counties had been represented in these conventions; the resultant failure only heightened Western determination to win concessions by whatever means.<sup>26</sup> By mid-1834 several Western counties were in turmoil. The court systems in Lincoln, Burke, Wilkes, and Rowan counties had, for all practical purposes, ceased operation. Grand juries in these counties, displaying an almost defiant attitude toward state authority, stated that they would secure justice by any means available.<sup>27</sup> Western newspapers, both Jacksonian and anti-Jacksonian, proclaimed solidarity. The edition of the Salisbury Carolina Watchman warned: "Rash and violent measures should be avoided...but let us say to the East, our political rights you must allow us. WE WILL HAVE THEM."<sup>28</sup> In a statewide polling organized by the reformers 22,971 freeholders expressed

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<sup>24</sup> Ibid., 67-8.

<sup>25</sup> Ibid.

<sup>26</sup> Boyd, 175.

<sup>27</sup> Hoffmann, 83; see also editorial comments in the Salisbury Western Carolinian, August 23, and October 11, 1834.

<sup>28</sup> Salisbury Carolina Watchman, August 23, 1834.

a desire for a convention, while only 817 rejected the idea.<sup>29</sup>

By 1834 both Whigs and Democrats had solidified party organizations. And leadership in both parties looked on the West as an important source of support. During the internal improvements agitation of 1833 Democratic leaders William H. Haywood, Jr., and Romulus M. Saunders had made bids to the West for the Democrats.<sup>30</sup> But it was the Whigs who pressed harder. Eastern Whig papers, such as the Newbern Spectator and the Raleigh Register, endorsed Western demands. The Spectator favored a Tidewater-Western coalition that would seriously weaken Democratic strength.<sup>31</sup> The Raleigh Register, edited by Joseph and Weston Gales, pointed out that Easterners could gain from a convention.<sup>32</sup>

An important non-partisan meeting of reformist legislators convened in Raleigh during December and January of 1833-34. Including prominent state leaders James A. King of Iredell County, Charles Fisher of Rowan County, William H. Haywood, Jr., of Wake County, and William A. Graham of Hillsborough, the

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<sup>29</sup>Green, 205; North Carolina had close to 80,000 franchised voters during this period. The estimate is mine, based on votes given in presidential and congressional elections between 1824 and 1836. See generally Hoffman for analyses of presidential elections.

<sup>30</sup>William H. Haywood, Jr., to Martin Van Buren, January 10, 1833. Martin Van Buren Papers, 1824-1858 (Private Collection 39). North Carolina State Department of Archives and History, Raleigh. This letter gives an indication of the seriousness of the Democratic effort.

<sup>31</sup>Newbern Spectator, August 8, 1834.

<sup>32</sup>Raleigh Register, January 25, 1834.

meeting issued a weighty "Address" embodying the major reforms introduced into the legislature during its last session.<sup>33</sup>

It called for: (1) biennial legislative sessions, (2) a change in the manner of appointing justices of the peace and field officers of the militia, (3) a change in the basis of representation to Federal population and taxation, (4) a change in the manner of electing the governor, (5) the possible abolition of borough representation, (6) amending the Thirty-Second or Religious Test Article of the Constitution, (7) "that future General Assemblies shall not abolish slavery" and that capitation taxes would be equalized, (8) that an amendment process, hitherto non-existent, be devised, and (9) that membership in the General Assembly be reduced in numbers.<sup>34</sup> The major point was "unequal representation":<sup>35</sup>

...a minority of one-third govern and tax a majority of two-thirds. The 33 counties first named in this table [only two of which were distinctly Western], elect a majority of both Houses of the General Assembly, and yet, they pay no more than one-third of the public taxes. They contain but very few exceeding one-third of the Federal population, and not one-third of the white population of the State! Is this equal?...By recurring to the tables [see footnote], you will perceive that they pay \$22,790, while they cost \$41,250, which is an excess of 18,460 dollars cost, beyond their aggregate taxes. Is this just, that they should elect a majority of the legislature? <sup>36</sup>

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<sup>33</sup>See Proceedings of a Meeting of Members of the Legislature Held in Raleigh, January 11, 1834; with An Address to The People of North Carolina on the Subject of Amending the Constitution of the State (Raleigh, 1834), hereinafter referred to as Proceedings, or when the "Address" is cited, Proceedings...Address.

<sup>34</sup>Proceedings, 5.

<sup>35</sup>Ibid., 2.

<sup>36</sup>Proceedings...Address, 1-4. A listing of county taxation

The weight of the Raleigh meeting, the enthusiasm for internal improvements, and the pressure exerted by Governor Swain finally achieved results. By January 2, 1835, a "convention bill" had passed both houses of the General Assembly. In the Senate the vote was 31 to 30.<sup>37</sup> The bill passed only with the help of a handful of Eastern Democrats and Whigs,<sup>38</sup> and only after vote-conscious Easterners had modified the bill to permit franchised free Negroes to vote on the call for a convention to be decided at the polls.<sup>39</sup> The convention bill directed certain modifications to be enacted. The disfranchisement of free Negroes and the removal of the religious test article were mentioned as desirable but not obligatory. The old basis of representation was to be swept away in favor of a mixed taxation--Federal population basis for the General Assembly. The Senate, heretofore composed of one member from

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and receipts is given. The "Address" by itself may be found in J. G. de Roulhac Hamilton (ed.), The Papers of William Alexander Graham, I (Raleigh, 1957), 285-303; the listing is included.

<sup>37</sup>Journal of the Senate and House of Commons of the General Assembly of North Carolina, 1834-35 (Raleigh, 1835), 100, 228, hereinafter referred to as the Journal of the Senate and House.

<sup>38</sup>These were Otway Burns (Carteret County), Weldon N. Edwards (Warren County), William B. Lockhart (Northampton County), Richard Dobbs Spaight (Craven County), James Wyche (Granville County), and Duncan McCormick (Cumberland County). Edwards and Spaight were prominent Democratic leaders; Burns and McCormick were Whigs from commerce-oriented counties. See the Journal of the Senate and House, 100; and Hoffmann, 84-85.

<sup>39</sup>Hoffmann, 84.

each county, was to be reduced in number to not less than thirty-four and not more than fifty members elected on the basis of taxation by district.<sup>40</sup> This was an obvious concession to the East which continued to possess a major portion of the state's wealth. The House of Commons, previously consisting of two members from each county, was to be stabilized in number to not less than ninety and not more than 120 members elected on the basis of Federal population. While each county was still permitted to have at least one Commoner, this plan favored the large counties of the Piedmont, which stood to gain extra members on the basis of population.<sup>41</sup> This compromise plan clearly recognized property as an interest to be weighed in legislation. The fact that none of the requirements for either holding office or for voting was modified indicates the essential conservatism that the reformers exhibited. To run for the Senate a candidate must have possessed 300 acres in fee and county residency for one year; to vote for the Senate, a man must have possessed 100 acres; a voter for the House, county residency and payment of taxes.<sup>42</sup> No one at the convention even mentioned the possibility of changing this requirement. The voting, held on April 1 and 2, gave the pro-convention

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<sup>40</sup>"An Act Concerning a Convention to amend the Constitution of the State," in Debates, 405, hereinafter referred to as "An Act."

<sup>41</sup>Ibid, 405-406; the convention act excluded borough representatives from the minimum and maximum allotment. Their disposition was to be settled in convention.

<sup>42</sup>"Constitution of North Carolina," in Debates, 421.

elements a 5,856 vote majority out of almost 50,000 votes cast.<sup>43</sup> The division was sectional.

The convention assembled in Raleigh on June 4, with most of the 130 chosen delegates present, two each elected from the state's sixty-five counties. Seventy-six came from Eastern counties, fifty-four from Western counties.<sup>44</sup> Estimates of comparative strength of Whigs and Democrats range from 63 to 75 for the former, and from 38 to 53 for the latter.<sup>45</sup> But sectionalism, not party discipline, was to be the determining factor at the convention. At least one-third of the delegates had connections with the internal improvements movement.<sup>46</sup> And almost all the delegates had served in state or national government before the convention. Prominent among the delegates were the elderly Nathaniel Macon, former United State Senator revered almost like a father by his fellow North

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<sup>43</sup>Raleigh Register, April 21, 1835. The vote was 27,550 to 21,644.

<sup>44</sup>See Debates, 3-4; see the Journal of the Convention, Called By the Freemen of North Carolina, To Amend the Constitution of the State, Which Assembled In the City of Raleigh, on the 4th of June, 1835 (Raleigh, 1835), 3-4, hereinafter referred to as the Journal of the Convention. Delegate listings occur in both. The traditional line separating East and West runs from the western boundary of Granville County down through the middle of the State to the eastern boundary of then Richmond County. See the map, Appendix I.

<sup>45</sup>Norton, 46; and Harold J. Counihan, "The North Carolina Constitutional Convention of 1835: A Study in Jacksonian Democracy," North Carolina Historical Review, XLVI (October, 1969), 340. Norton uses votes given by delegates, many of whom were General Assembly members, during the "instructions" controversies. Both he and Counihan use various newspaper reports.

<sup>46</sup>Counihan, 341.

Carolinians; John Branch, former Governor and former Secretary of the Navy under Andrew Jackson; state Chief Justice William Gaston, former congressman and the state's leading Catholic; John Motley Morehead, governor-to-be and prominent educator; Governor David L. Swain; and a plethora of ex-governors, ex-congressmen, and congressmen-to-be.<sup>47</sup> While not as prestigious as the Virginia convention of a few years past, the conclave that met in the Presbyterian Church in Raleigh during June and July of 1835 was still impressive by any standards.

#### THE CONVENTION: RACE

When the delegates convened on June 4, their agenda had been carefully prescribed by the "convention bill."<sup>48</sup> Of the major concerns of the convention, three stand out in retrospect and in amount of time devoted to them. The issue of free Negro suffrage--concern over race--was the first; the problem of representation was the second; and the question of religious tests was the third.

Under the "convention bill" the delegates had been empowered to consider, "in their discretion," either abrogating or restricting the voting rights of free Negroes.<sup>49</sup> The 1776 constitution had made no provision for barring free Negroes

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<sup>47</sup>See Appendix VII of this study for more information on these delegates. The best single source for sketches of many of the delegates is Samuel A. Ashe (ed.) Biographical History of North Carolina. 8 Vols. (Raleigh, 1905-1917).

<sup>48</sup>See "An Act," 403-408.

<sup>49</sup>Ibid, 406.

from the franchise. Indeed, the "Declaration of Rights" and the Constitution mention only the rights of "freemen," and, in at least some areas of the state, this meant free Negro freemen as well.<sup>50</sup> Just how many free Negroes voted is a difficult question. In 1830, there were close to 20,000 "free persons of color" in the state, most of them concentrated in Eastern counties. Halifax County alone, with a white population of 5,870, had over 2,000 of them.<sup>51</sup> Delegate Jesse Wilson of Perquimans County estimated, during the debates, that three-hundred free Negroes in Halifax County could exercise the franchise.<sup>52</sup> It is also significant that Halifax's two delegates at the convention, Judge Joseph Daniel and ex-Governor John Branch, voted against disfranchisement.<sup>53</sup>

The position of the free Negro in North Carolina in the ante-bellum period was almost unique among states of the South.<sup>54</sup> No other Southern state had as many prominent free Negroes. In 1830 at least two-hundred free Negroes held slaves, and the aggregate value of free Negro personal and real property in 1860 amounted to over one million dollars.<sup>55</sup>

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<sup>50</sup>See for example Debates, 70, 80.

<sup>51</sup>See my census tabulations, Appendices III and IV.

<sup>52</sup>Debates, 80.

<sup>53</sup>Ibid, 81.

<sup>54</sup>For the fullest discussion of this subject see John Hope Franklin, The Free Negro in North Carolina, 1790-1860 (New York, 1969). This is a reissue of Franklin's 1943 study.

<sup>55</sup>See Franklin's Appendices, II, 233; and III, 235-6.

Prominent free Negroes, such as John Chavis, the famous teacher of North Carolina senators and governors, were respected by even the most color-conscious of whites.<sup>56</sup> Strong manumission sentiment was prevalent during the years 1801 to 1828. The operations of the American Colonization Society and the North Carolina Manumission Society were important.<sup>57</sup> In 1790 the Old North State had 4,975 free persons of color; in 1830, 19,543, an increase of almost 400 percent in forty years. White population had increased by only 60 percent during the same period.<sup>58</sup>

The abolitionist attacks of David Walker and William Lloyd Garrison, reaching the state shortly after the Nat Turner rising in Virginia, and a rumored Sampson County riot of the same year, produced a predictable alarm. A new Emancipation Code making manumission more difficult was shortly thereafter passed.<sup>59</sup> Still, North Carolina acted with comparative caution. By 1834 North Carolina was the only Southern state permitting free Negro voting. Seven Southern states had never allowed it, and Virginia and Tennessee voided the possibility in 1830 and 1834 respectively.<sup>60</sup>

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<sup>56</sup>Franklin fully discusses Chavis and other free Negroes; especially see Chapter V, 163-191.

<sup>57</sup>Rosser H. Taylor, The Free Negro in North Carolina. Volume XVIII, Number 1, in The James Sprunt Historical Publications (Chapel Hill, 1920), 9.

<sup>58</sup>See my census tabulation, Appendix III.

<sup>59</sup>Taylor, 10.

<sup>60</sup>Stephen B. Weeks, "The History of Negro Suffrage in the South," Political Science Quarterly, IX (December, 1894), 674-5.

Opinion on free Negro suffrage appears to have been fairly amorphous in 1835. The various appeals for constitutional reform had only touched the subject superficially. While disfranchisement was not mentioned before 1831, in 1835 state leaders seemed unsure as to just what kind of action, if any, was desirable.<sup>61</sup> When the delegates convened, Judge Joseph J. Daniel of Halifax County was selected to chair the special committee responsible for a resolution on the matter. On Friday, June 12, Judge Daniel submitted his resolution: "Resolved, that to entitle any free person of color to vote for members in the House of Commons, he shall be possessed of a freehold estate of the value of \$250, free from all incumbrances."<sup>62</sup>

Resolving itself into a Committee of the Whole the convention proceeded to debate the issue for three days. Delegates speaking in favor of some sort of free Negro franchise included Judge Daniel, John Branch, Emanuel Shober of Stokes County, John Giles and Charles Fisher of Rowan County, state Chief Justice William Gaston of Craven County, and Samuel King of Iredell County. Arrayed in opposition to any form of Negro suffrage were Nathaniel Macon and Weldon Edwards of Warren

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<sup>61</sup>A comparison of several pamphlets indicates the development of some consistency after 1830-31. Whether the growth of abolitionist arguments in the North or any of the violence of 1831 had any direct effect on the growth of disfranchisement sentiment is an only partially answered question. See Taylor, 10. See also Proceedings...Address, Section VIII.

<sup>62</sup>Debates, 60.

County, James Bryan of Carteret County, Jesse Cooper of Martin County, Jesse Speight of Greene County, and Hugh McQueen of Chatham County.<sup>63</sup>

The most important arguments of the anti-suffrage delegates were summed up in the speech of James Bryan. He began by asserting that all freemen need not possess the same political rights to enjoy the same civil rights. Quoting Blackstone, Bryan asserted that the free Negro did possess the essential civil rights, that is, the right of personal security, the right of personal liberty, and the right of personal property.<sup>64</sup> "Can it be doubted," he asked, "that the free negro might be permitted in our Government, fully to enjoy all these, without being invested with those political rights which are so loudly and eloquently claimed for him by his able advocates on this floor."<sup>65</sup>

All free men of color had originally been slaves. What record or act of government had given them the political rights of freemen? For Bryan this focused an intriguing point: could the legislature confer citizenship on anyone? Indeed, was the free Negro really a citizen? Bryan answered that, "If he is a citizen, he is entitled to the full benefits of that clause in the Constitution of the United States, which declares that 'the citizens of each state shall be entitled to all the privileges

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<sup>63</sup>Ibid., 62-80.

<sup>64</sup>Ibid., 62-3.

<sup>65</sup>Ibid.

and immunities of the citizens in the several states.'"<sup>66</sup> But how could this be when the General Assembly of North Carolina had already placed severe restrictions on free Negro immigration, and when Virginia, Ohio, Maryland, and other states had forbade Negro suffrage. If the free Negro was not a citizen in those states, it appeared to Bryan that he could not be a citizen of North Carolina.<sup>67</sup>

Referring to the 1776 Constitution, delegate Bryan insisted that the meaning of the term "freemen" for the framers of that document had been clearly restricted to white freemen. There were few free Negroes in 1776, none of whom held a franchise. "I make the assertion," exclaimed Bryan, "that they are not Freemen, within the meaning and operation of our Constitution."<sup>68</sup> And, thus, if they were not considered freemen in 1776, what would give them that right in 1835? Continued Bryan, "I do not acknowledge any equality between the white man and the free negro, in the enjoyment of political rights--the free Negro is a citizen of necessity, and must, as long as he abides among us, submit to the laws which necessity and the peculiarity of his situation compel us to adopt."<sup>69</sup> While expressing his regrets over the possible exclusion of some distinguished free Negroes from the suffrage, Bryan insisted that they must yield to the public good. Essentially, he said,

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<sup>66</sup>Ibid., 64.

<sup>69</sup>Ibid., 68-9.

<sup>67</sup>Ibid.

<sup>68</sup>Ibid., 65

...this is a nation of white people--its offices, dignities and privileges are alone open to, and to be enjoyed by, white people. I am for no amalgamation of the colors. The God of Nature has made this marked and distinctive difference between us, for some wise purpose, and assigned to each color their proper and appropriate part of the Globe; and I never can consent to this equality, until 'the Ethiopian shall be enabled to change his color, and the Leopard his spots.'<sup>70</sup>

To James Bryan's case for disfranchisement Hugh McQueen added finishing touches. McQueen raised the spectre of a franchised Negro majority. How would the delegates react to such a situation? "Is there any gentlemen on this floor, who would be willing to see the right of suffrage extended to free persons of color, if they were likely to constitute a majority of the voters in the State?" he queried.<sup>71</sup> What sort of principle would dictate investing the free Negroes with the right of suffrage when in a minority, while refusing to extend it if they were in a majority? For McQueen the situation bordered on the ridiculous: "The public sentiment of this country does not admit them to the enjoyment of any office of honor or profit; yet, strange to tell, the law of the country permits them to have a voice in excluding white persons from office."<sup>72</sup> To him, "The Negro...came here debased; he is yet debased, and there is no sort of polish which education or circumstances can give him which ever will reconcile the whites to an extension of the right of suffrage to the free negro."<sup>73</sup>

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<sup>70</sup>Ibid., 67.

<sup>72</sup>Ibid.

<sup>71</sup>Ibid., 77.

<sup>73</sup>Ibid.

The proponents of retaining qualified free Negro suffrage lacked the cohesion of argument possessed by anti-suffrage speakers. As John Spencer Bassett has so aptly pointed out, "The natural strength of their position lay along the lines of the natural rights of man. They had confined themselves almost solely on the question of expediency."<sup>74</sup> Judge Daniel, who brought in the special committee report, weakly suggested that it would be "good policy" to continue permitting substantial free Negroes to exercise the franchise. To take the vote from them would throw them back toward slavery. With the franchise they could feel an honest stake in their governance. Voting was an incentive for the free Negro aware of his status.<sup>75</sup> Daniel's fellow delegate from Halifax County, John Branch, urged the same. He hoped that the convention would "keep the door open to the most intelligent and deserving free men of color." He admitted that in Halifax County there were almost three-hundred free Negro voters who would not like disfranchisement.<sup>76</sup>

Two Westerners added to these arguments. John Giles of Rowan County, protesting that "he was no innovator," saw no reason to eliminate free Negro suffrage unless it had caused any harm. Why deprive a set of voters of their privileges?

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<sup>74</sup>John Spencer Bassett, "Suffrage in the State of North Carolina, 1776-1861." American Historical Association, Annual Report for the Year, 1895, 278.

<sup>75</sup>Debates, 60-1.

<sup>76</sup>Ibid., 70.

He urged, on the contrary, that attempts should be made to improve the lot of the free Negro, to help them to become "industrious and respectable" and to acquire property sufficient to qualify them to exercise the elective franchise.<sup>77</sup> And Emanuel Shober of Stokes County argued that free Negroes "were human beings, are free agents, and have a free will. We have always considered them as subjects fit for taxation and fit for certain public duties. If fit for these purposes, they ought to be allowed some privileges."<sup>78</sup>

Two other advocates of some form of free Negro suffrage, state Chief Justice William Gaston of Craven County and James King of Iredell County, argued that free Negroes were, contrary to the opinions of Bryan and others, citizens. Gaston pleaded with the convention not to deprive the free Negro of a right enjoyed for many years. The free Negro "should not be politically excommunicated, and have an additional mark of degradation fixed upon him, solely on account of his color."<sup>79</sup> Justice Gaston produced a signed oath of allegiance taken on December 20, 1778, by free Negro John Chavis, under the state's citizenship act of 1777, to prove that free Negroes had, in fact, been considered citizens in the Revolutionary period.<sup>80</sup> Delegate King followed Gaston's logic by pointing out that free

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<sup>77</sup>Ibid., 74.

<sup>78</sup>Ibid., 72.

<sup>79</sup>Ibid., 79.

<sup>80</sup>Ibid., 351.

and franchised Negroes had by virtue of that fact, been considered citizens of North Carolina previous to the 1776 convention. He added: "The second section of the 4th Article of the Constitution of the United States, says... 'The citizens of each State shall be entitled to all the privileges and immunities of the citizens in the several states.' Thus, sir, by abrogating the right in toto, we would ingraft a provision in the Constitution that would conflict with the Constitution of the United States."<sup>81</sup>

In a test vote Jesse Wilson of Perquimans County moved a substitute resolution for Judge Daniel's: "Resolved, that free Negroes and mulattoes, within four degrees, shall not in the future be allowed to vote for members of the Senate or House of Commons."<sup>82</sup> Wilson's motion carried 61 to 58.<sup>83</sup> The crucial vote on approving the substitute was carried 66 to 61.<sup>84</sup> Of the 61 delegates voting against disfranchisement, 26 were from the East (34 percent of the 76 Easterners), and 35 were from the West (65 percent of the Westerners).<sup>85</sup> Of the fifty delegates at the convention from the twenty-five counties with the highest concentrations of free Negroes, 22 voted "nay"

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<sup>81</sup>Ibid., 352-3.

<sup>82</sup>Ibid., 71.

<sup>83</sup>Ibid.

<sup>84</sup>Ibid., 81.

<sup>85</sup>Ibid.; Journal of the Convention, 23.

on disfranchisement, with 28 voting "yea." While delegates from these counties voted 56 percent to 44 percent to abolish free Negro suffrage, the statewide division was 52 percent to 48 percent.<sup>86</sup> Judge Daniel and John Branch from Halifax County, voted "nay." John Hope Franklin states that, "The presence of such a large number of free Negroes seems to suggest a rather tolerant attitude on the part of the county."<sup>87</sup> Other nay-voting delegates from the East may reflect the same condition. However, the large majority of Easterners voted for disfranchisement, and this was irrespective of party affiliation.<sup>88</sup>

#### THE CONVENTION: REPRESENTATION

The issue of unequal representation was central for the convention. It was this issue that had motivated most of the agitation during the years preceding 1835. It was representation

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<sup>86</sup>See my census tabulations, Appendix IV; compare delegate voting by county, Debates, 3-4, and the Journal of the Convention, 3-4.

<sup>87</sup>Franklin, 113.

<sup>88</sup>Only twenty-six of the seventy-six Eastern delegates voted against disfranchisement. These were: Samuel B. Andres (Bladen), John Arrington (Nash), Asa Biggs (Martin), John Branch (Halifax), Richard C. Bunting (Robeson), Joseph J. Daniel (Halifax), George Ferebee (Camden), William Gaston (Craven), Alexander B. Gaston (Hyde), William R. Hall (Brunswick), Owen Holmes (New Hanover), Kimbrough Jones (Wake), John Joiner (Pitt), Willie McPherson (Camden), Archibald McDiarmid (Cumberland), Lewis H. Marsteller (New Hanover), John Owen (Bladen), Absalom Powell (Columbus), John W. Powell (Robeson), Kenneth Rayner (Hertford), Henry Seawell (Wake), Gabriel Sherard (Wayne), Alexander B. Troy (Columbus), John D. Toomer (Cumberland), William P. Williams (Franklin), and Lemuel H. Whitfield (Wayne). Both the Eastern Whigs and Democrats voted for and against the report.

that figured so prominently in the pamphlet campaign of 1833 and 1834. When the special committee chaired by Governor Swain made its report on June 15, the numerical composition of the new General Assembly became the crucial point of debate. The Committee reported for a House of 120 members and a Senate of fifty. Voting on each provision the delegates accepted fifty as the fixed membership for the Senate without much debate.<sup>89</sup> This number would favor the East. But on the issue of accepting 120 as the fixed membership of Commons, a number of Easterners balked. Jesse Speight, John Branch, Jesse Wilson, Nathaniel Macon, and David Outlaw of Bertie County objected to 120. Governor Swain, Charles Fisher, Chief Justice Gaston, and Hugh McQueen defended the provision.

The initial argument for 120 as the number for House membership was stated by Governor Swain. He felt that since the delegates had already chosen fifty for the membership of the Senate, they were obligated to choose the largest number for the House of Commons. "He did not see how, in any other way, they could carry out the great principles of compromise embraced in the Act of Assembly."<sup>90</sup> For Swain, this seemed to be the only morally correct course.

The opponents of 120 argued skillfully that the convention bill nowhere specified that if the largest number were approved for one house, it should also be approved for the

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<sup>89</sup>Debates, 83-4.

<sup>90</sup>Ibid., 84.

other. Jesse Wilson urged the delegates to re-read the act. It seemed apparent to him that the convention bill had only given minimum and maximum numbers.<sup>91</sup> Where was it stated that if the delegates selected fifty for the number of Senators, they were obligated to chose 120 for the number of Commons? "If, indeed, it had been intended by the Legislature that members of the Convention were to be bound to certain numbers, they would have said, in express language, if the number 50 be taken as the basis of the Senate, then 120 shall be taken for the House of Commons."<sup>92</sup> David Outlaw called Swain's reading of the act "a most extraordinary construction," and asserted that ninety and 120 were only boundaries set for debate.<sup>93</sup> Even Judge Gaston admitted that the convention bill did not exactly specify a relationship between the numbers. But for the delegates to choose a maximum number for the Senate and minimum number for the House would indicate a disregard for "the spirit of the adjustment."<sup>94</sup> Fifty and 120 seemed to him "irresistable."<sup>95</sup>

In the representation debates Jesse Speight supplied the fire for the opponents of 120. Coming from a small Eastern county, he saw clearly the advantage that one-hundred or

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<sup>91</sup>Ibid., 97.

<sup>92</sup>Ibid.

<sup>93</sup>Ibid., 112.

<sup>94</sup>Ibid., 137.

<sup>95</sup>Ibid.

ninety would give to his and other (mostly Eastern) small counties. With a one-hundred member House of Commons, each county getting at least one Commoner, there would be only thirty-five extra seats to be proportioned among the larger counties. With 120 as the Commons membership, there would be fifty-five. Greene County's weight would be felt much more strongly if the number of Commoners were less.<sup>96</sup> Speight had never reconciled himself to the idea of a convention in the first place. He considered Western grievances to be "more imaginary than real," and for this reason he had initially objected to taking the prescribed oath which obligated him and the other delegates to take positive action on representation.<sup>97</sup> But he had taken the oath.<sup>98</sup> It was the number of House members that now ~~gained~~ <sup>arrested</sup> his attention. Attacking Swain's proposal, he suggested that if the number ninety were taken for the House, the Federal population ratio would be 7,084. After one representative was allotted to each county, there would be twenty-five left. The Western twenty-eight counties, with an excess of 141,144, would receive nineteen more Commoners for the residue. This would give the West a total of forty-seven Commoners, while the East got forty-three. On joint ballot with the Senate, there would be a parity. But Speight exclaimed that he and other opponents were willing, "maganimously," to

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<sup>96</sup>Ibid., 86.

<sup>97</sup>Ibid., 84-5; and "An Act," Section X, 405.

<sup>98</sup>Debates, 8.

compromise at one-hundred. The West would actually have six more representatives. The number 120, however, he warned, would do irrevocable damage to the East.<sup>99</sup>

To the emotional strictures of Speight, Jesse Wilson added logic. Opposing 120 he asked whether the Western delegates were really concerned about equitable representation at all. Swain's plan had been advanced as a curative measure. But inequalities would still exist if it were approved, with the larger counties obtaining more representation than they would actually deserve. Under the plan when one county had an excess beyond the Federal population ratio for a representative, the surplus would be transferred to an adjoining county within the same population district which had a larger surplus. The county with the larger surplus would be thus entitled to another member.<sup>100</sup> Wilson illustrated what havoc this might bring by illustration: If 120 was the number of House members, then slightly over 6,000 would be the federal population ratio. In the Edenton district, Camden County would have a surplus of 700, Pasquotank 1800, Currituck, 900, Chowan 300, Gates 600, and Perquimans 400. Pasquotank would receive one extra member by allowing her the weight of all other excesses in the district. But would these excesses be represented? No! Pasquotank would have twice the weight of Gates or Chowan.<sup>101</sup> "If the plan was adopted, as he had

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<sup>99</sup>Ibid., 119.

<sup>100</sup>Ibid., 97-8.

<sup>101</sup>Ibid.

remarked before, it would give strength to the strong, power to the mighty, and would shear the weak."<sup>102</sup> Wilson felt that one-hundred Commoners and a different method of districting would be more equitable to all sections of the state.<sup>103</sup>

Charles Fisher and Hugh McQueen replied to Speight. A smaller number of representatives in the House perhaps would help the smaller counties, but a larger number would aid the medium-sized ones. Fisher explained, "We go for 120, because that number will make less derangement in the counties than 100 will--because it will dissatisfy fewer people in the State, than any smaller number--because 120 will give two members to all medium sized counties, and thus satisfy them with the changes; whereas 100 will cut off a number of these medium counties with one member, and thereby dissatisfy them with the change, and make them vote against the ratification."<sup>104</sup> And McQueen added, "But those small counties, which have not the number necessary to procure two members under any given ration, should be too magnanimous to reject a proper number, because it would further increase the power of other counties in the State."<sup>105</sup>

Implicit throughout the debate over representation was the concern of many delegates for increased internal improvements.<sup>106</sup>

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<sup>102</sup>Ibid.

<sup>103</sup>Ibid., 99.

<sup>104</sup>Ibid., 118.

<sup>105</sup>Ibid., 152.

<sup>106</sup>Ibid., 153-4.

Despite the protestations of Charles Fisher that the West was solely interested in righting injustice,<sup>107</sup> the other Western delegates showed more than a passing concern over railroads and turnpikes. Early in the debate James Wellborn of Wilkes County had complained that Eastern dominance of the legislature made an effective program of internal improvements difficult.<sup>108</sup> And even Easterner William Gaston had cautiously suggested that "the best interests of the County called aloud for some energetic plan by which the hidden resources of our country might be brought to light and its sleeping energies roused into action."<sup>109</sup>

To Wellborn's complaint Jesse Wilson thundered "that the West want power in their hands, not because Lincoln, Orange, etc. were unequally represented in the Legislature, but because they want to construct railroads, canals, etc. to give them an outlet to the ocean."<sup>110</sup> Quoting Jefferson the venerable Nathaniel Macon decried the innovators' mania for government-subsidized improvements, which he suggested, "ought to be the work of individuals, as they could always have it done at a cheaper rate than Government."<sup>111</sup> Jesse Speight added that, "It was impossible that this State could vie with the State of

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<sup>107</sup>Ibid., 116-7.

<sup>108</sup>Ibid., 87.

<sup>109</sup>Ibid., 134.

<sup>110</sup>Ibid., 99.

<sup>111</sup>Ibid., 92.

New York in improvements."<sup>112</sup> He distrusted "those wild and visionary schemes on which the demagogue always mounts to power."<sup>113</sup>

Calling on his fellow Easterners to join him, Speight now attempted to shift the grounds of debate to the "ulterior" motives of the Westerners.<sup>114</sup> His position stood little chance of success on a straight small-versus-large and medium county vote. He appealed to the seventy-six Easterners, coming from counties that had voted against the convention bill, not to let the West "cram it [the convention reforms] down the throats of a patriotic people."<sup>115</sup> Governor Swain insisted that the West would have justice. If not achieved at the convention, "The general sense of injury, will impel the people, as one man, to rend asunder the cords which bind the body politic, and stand forth here, in unshorn might and majesty."<sup>116</sup> Nathaniel Macon warned that "all changes in Government were from better to worse."<sup>117</sup> And Jesse Speight responded to Governor Swain, proclaiming that "such threats as these (if so intended) were no terror to his mind."<sup>118</sup>

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<sup>112</sup>Ibid., 93.

<sup>113</sup>Ibid., 123.

<sup>114</sup>Ibid.

<sup>115</sup>Ibid.

<sup>116</sup>Ibid., 91.

<sup>117</sup>Ibid., 117.

<sup>118</sup>Ibid., 120.

On June 18 Judge Gaston spoke to the assembled delegates. A conservative reformer, Gaston spoke of conciliation and compromise. It was only natural that West should become impatient over the pace of reforming activity and that the East should resist these attempts: "It could not but happen, as it has happened, that this majority (the West) should become deeply dissatisfied with political institutions of their country, and vehemently demand such a change as would correct this artificial inferiority. Nor could it well be otherwise, that those who had so long struggled with success by means of these very institutions, against this majority, should feel an almost panic fear at being called to surrender the sceptre of power barren and profitless as it has been."<sup>119</sup> Justice had to be done, and it was the duty of the convention to make the process as painless as possible. Gaston cautioned Governor Swain against threats to "rend asunder the cords which bind the body politic." He warned the convention that this would be "a triumph over order and law, over themselves and their friends and their country. This, surely, would be their very last resort, their ultima ratio, which nothing but hopeless oppression could excuse, and which they never will adopt, while other means of redress are obtainable."<sup>120</sup> But by the same token, the convention bill did require the delegates assembled to alter the scheme of representation. The oath each of the

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<sup>119</sup>Ibid., 128.

<sup>120</sup>Ibid., 130.

delegates had taken enjoined them to act in the interest of all the people of the State.<sup>121</sup> To Gaston the proposed plan seemed to be the best measure to satisfy and reconcile East and West. A division of power was retained. The Senate insured the protection of property, the House felt the weight of persons (and slaves). Neither of these interests, property and persons, was at the mercy of other. Yet these two interests would serve to balance and check each other. Such a plan as proposed would insure that "industry, order and temperance" would remain by-words for North Carolinians.<sup>122</sup>

The convention, before resolving the issue of House of Commons membership, decided that redistricting of the General Assembly should occur every twenty years after 1851 with the first to occur in 1841.<sup>123</sup> Jesse Speight then moved to strike out 120 from Swain's proposal. The vote was 52 to 76 against changing the report.<sup>124</sup> Of the 52 votes cast for Speight's motion, 51 were from the East.<sup>125</sup> The lone Westerner voting "yea" was Henry W. Harrington of Richmond County.<sup>126</sup> Twenty-

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<sup>121</sup>Ibid., 131.

<sup>122</sup>Ibid., 132.

<sup>123</sup>Ibid., 157-161; and "Amendments to the Constitution," in Debates, 419.

<sup>124</sup>Debates, 162; Journal of the Convention, 31-2.

<sup>125</sup>Debates, 162; Debates, 3-4, and Journal of the Convention, 31-2, for delegates listings by county.

<sup>126</sup>Henry Harrington's county, Richmond, was a "border" county between East and West. See the map, Appendix I.

two Easterners (29 percent of 76) joined the fifty-four Westerners to defeat the motion.<sup>127</sup> Of these twenty-two Easterners, ten had voted to retain some form of free Negro suffrage.<sup>128</sup> Ten were Whigs, eight were Democrats, and four cannot be classified.<sup>129</sup> The convention had turned its back on at least a part of 1776.

#### RELIGION

One of the thorniest problems for the delegates was what, if anything, to do about the Thirty-second Section of the 1776 constitution. This article read:

That no person who shall deny the being of God, or the truth of the Protestant Religion, or the divine authority either of the Old or New Testament, or shall hold Religious principles incompatible with the freedom and safety of the State, shall be capable of holding any office or place of trust or profit in the Civil department within the state.<sup>130</sup>

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<sup>127</sup> Ibid. The twenty-two Easterners were: John Arrington (Nash), Richard H. Bonner (Beaufort), William Gaston (Craven), Owen Holmes (New Hanover), Kimbrough Jones (Wake), John Joiner (Pitt), Nathaniel Macon (Warren), Weldon Edwards (Warren), Archibald McDiarmid (Cumberland), Lewis H. Marsteller (New Hanover), William B. Meares (Sampson), John Owen (Bladen), Jeremiah Pearsall (Duplin), Henry J.G. Ruffin (Franklin), Henry Seawell (Wake), Joseph B. Skinner (Chowan), Richard Dobbs Spaight (Craven), Joshua Tayloe (Beaufort), John D. Toomer (Cumberland), John W. Williams (Person), Robert Williams, Sr. (Pitt), and William P. Williams (Franklin).

<sup>128</sup> These were: Arrington, Gaston, Holmes, Jones, Joiner, McDiarmid, Marsteller, Owen, Toomer, and W.P. Williams.

<sup>129</sup> See Counihan, 340, for his individual characterisations of the delegates. A good study of political maneuvers surrounding such issues is Henry M. Wagstaff, States Rights and Political Parties in North Carolina, 1776-1861. Series XXIX, numbers 7-8, in Johns Hopkins Studies in Historical and Political Science (Baltimore, 1906).

<sup>130</sup> "Constitution of North Carolina," in Debates, 416.

Section 19 of the "Declaration of Rights," which prefaced the 1776 document, stated "That all men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences."<sup>131</sup> To a number of individuals in the state these two clauses seemed incongruous. The Thirty-second Section seemed to penalize free expression of religious belief. In 1808 the issue had been raised with the election of a Jew, Jacob Henry, as a member of the House of Commons from Carteret County. Henry had been vindicated by vote of the House, but the issue remained.<sup>132</sup> The appointment of the popular William Gaston to the Supreme Court in 1833 had raised the issue anew. No one suggested that Gaston, a Roman Catholic, refuse to accept the position.<sup>133</sup> The problem of the Thirty-second Section, however, called for some sort of clarification.

The appeals and addresses concerning reform had included provisions for eliminating or modifying the Thirty-second Section, and when the General Assembly passed the convention bill, it includes a clause permitting the convention to "consider" amending the article.<sup>134</sup> When the delegates convened in Raleigh, Weldon Edwards of Warren County, nephew of

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<sup>131</sup>"Declaration of Rights," in Debates, 410.

<sup>132</sup>Debates, 132.

<sup>133</sup>Joseph Herman Schauinger, "William Gaston: Southern Statesman," North Carolina Historical Review, XVIII (April, 1941), 123.

<sup>134</sup>"An Act," 406.

Nathaniel Macon and Democratic leader, was selected to chair the special committee on amending the Thirty-second Section.<sup>135</sup> On Friday, June 26, he reported the recommendation, "That all men having a natural and inalienable right to worship Almighty God, according to the dictates of their own consciences, all Religious Tests, as qualifications for Office are incompatible with the principles of Free Government."<sup>136</sup>

The convention now resolved itself into a Committee of the Whole to debate the question. Those speaking in favor of the abolition of all religious tests for holding office included Edwards, James Bryan, Kenneth Rayner of Hertford County, William Gaston, Nathaniel Macon, Jesse Wilson, John Branch, and Samuei Carson of Burke County. Opposing any changes in the article were Jesse Cooper, Jesse Speight, Emanuel Shober, John Motley Morehead of Guilford County, and John D. Toomer of Cumberland County. A middle group, including Charles Fisher, James Weliborn, Alfred Dockery of Richmond County, and Burges S. Gaither of Burke County, advocated some modification of the article, as it developed, changing the word "Protestant" to "Christian." For the most part the opponents of any change in the section were constantly on the defensive. The arguments of the proponents of modification were long, involved, and, at times eloquent.<sup>137</sup>

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<sup>135</sup>Debates, 214.

<sup>136</sup>Ibid., 309, as later re-introduced.

<sup>137</sup>Ibid., 214.

On the committee resolution to eliminate all religious qualifications for office, the anti-test delegates began their verbal barrage. Edwards attacked the Thirty-second Section as inconsistent with "the Declaration of Rights." "Is there not a palpable incongruity between the two? Does not the one give universal scope to the principle of toleration, and conform strictly to the natural rights of man; and does not the other limit and restrict the inestimable rights of conscience?"<sup>138</sup> To Edwards the Thirty-second Section raised the possibility of a conjunction of church and state, and "legal Religion and political liberty are wholly incompatible."<sup>139</sup> James Bryan, one of the youngest of the delegates, in a bold appeal for elimination, suggested that if the state could exclude one set of men, religious liberty was not safe for anyone.<sup>140</sup> Citing Justice Joseph Story's "Commentaries," Bryan proceeded to give a detailed explanation of why the framers of the Federal Constitution has eschewed religious tests. "It was easy to foresee," he said, "that without some prohibition of religious tests, a successful sect in our country might, by once possessing power, pass Test laws, which would secure to themselves a monopoly of all the offices of trust and profit under the National Government."<sup>141</sup> The only way to safeguard against this

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<sup>138</sup>Ibid., 215.

<sup>139</sup>Ibid., 215-6.

<sup>140</sup>Ibid., 238.

<sup>141</sup>Ibid., 236.

possibility was for governments not to engage in legislation on the matter beyond guaranteeing equal rights for all religious views.<sup>142</sup>

For Kenneth Rayner the issue of religious tests for office transcended all others at the convention. Like Bryan, he was young, an Easterner, and a conservative Whig.<sup>143</sup> The only real "sore" he saw on the constitution was the Thirty-second Section. He addressed the chair:

Sir, that Constitution was as well calculated to secure the blessings of Civil Liberty, as any the ingenuity of the age could devise. With the gentleman from Carteret (James Bryan), I am ready to declare, that with me, the 32d section was the only objectional feature in it; and even with that, obnoxious as it is, I should have preferred it to any we were likely to obtain, believing it better 'to bear the ills we have than fly to others that we know not of.'<sup>144</sup>

Rayner chastised the West for its unresponsiveness to elimination of tests, for its "pretended sorrow." Where were the Westerners who were so zealously concerned about justice and reform?<sup>145</sup> Indeed, on religious tests the only Western delegate to speak for elimination was Samuel P. Carson.<sup>146</sup> Hardly any of his Western compatriots were prepared to go that far.<sup>147</sup>

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<sup>142</sup>Ibid.

<sup>143</sup>Rayner later became one of the most important of the state's Whig leaders. See Wagstaff, Chapter III. Rayner had opposed free Negro disfranchisement and supported Speight's motion.

<sup>144</sup>Debates, 259.

<sup>145</sup>Ibid., 259-260.

<sup>146</sup>Ibid., 240-1.

<sup>147</sup>Ibid., 310; and the Journal of the Convention, 49; only

To Rayner this was ironic. Many of the state's "ancient institutions"--freeman suffrage, county representation, and others--"amid the havoc of Reform," had been "swept away, one after another, by the besom of innovation."<sup>148</sup> Not a murmur had been raised by the West about these changes. But now that an attempt is made to wipe away "this only stain upon our Political Charter," "we hear the whining, the crocodile cry, that our institutions are in danger--that the shock will be too great for the public mind."<sup>149</sup>

The opponents of any modification in the Thirty-second Section were saying just that. Doctor James S. Smith of Orange County protested that the people of his Piedmont county were dead set against revising the article. He felt there to be no necessity in the matter.<sup>150</sup> Emanuel Shober, a Moravian, opined that, "it appears to me that the 32d section should be retained unaltered, or if altered at all, very slightly...We may be termed fanatics, or may be called bigots, but such names will not change sentiment; and it does appear to me, that a country is in a better situation at least, with a grain of superstition, than with a tincture of infidelity."<sup>151</sup> James Wellborn observed that the inhabitants of his mountain county did not

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Carson and Governor David L. Swain from distinctly Western counties voted with the anti-test forces.

<sup>148</sup>Debates, 259-60.

<sup>149</sup>Ibid., 260.

<sup>150</sup>Ibid., 243.

<sup>151</sup>Ibid., 252.

care for atheist voters.<sup>152</sup> And Jesse Cooper removed the gloves from the debaters by attacking openly the practices of Roman Catholicism. Infidel and Jewish elements in the state's population hardly existed. It was the Catholic and his religion that captured Cooper's attention. He admitted that there might be "honest Roman Catholics," a few of them,

but, in the protecting of this one, we must take care we don't let in a thousand dishonest ones. The Roman Catholic is the very offspring of a despot. Our fathers saw the necessity for the Article, and placed it where it is. They knew what a Roman Catholic was, and was (sic) afraid, if they didn't put something of this sort in, they might have a harder struggle than they had just got out of.<sup>153</sup>

There might be some talented and patriotic Catholics Cooper said, "but while we know the doctrine is a dangerous one, we ought to exclude them."<sup>154</sup>

Emanuel Shober concluded that the real issue in the matter was over the use of the word "Protestant." To him the word meant the beliefs of those embracing "that memorable and venerated instrument submitted by certain Princes of Germany to the Diet of Augsburg, as a Protest against the abuses of the Catholic Church."<sup>155</sup> He observed that since that time Catholicism had undergone some "purification." Perhaps, now, even a good Catholic could not deny the truth of the Protestant religion.<sup>156</sup> Dr. Smith suggested the same thing. Catholics

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<sup>152</sup>Ibid., 242.

<sup>156</sup>Ibid., 253-4.

<sup>153</sup>Ibid.

<sup>154</sup>Ibid.

<sup>155</sup>Ibid., 253.

had occupied the state's highest offices. The section "was at present useless--it was a dead letter; but the time might come when it would be needed, and he trusted it would never be used until some great emergency should arise....He wished this section to be laid aside as Sleeping Thunder, to be called up only when necessary to defeat some deep laid scheme of ambition."<sup>157</sup>

But just what was the "Protestant" religion? James Bryan suggested that there was no one answer given to this question. He feared the results of such controversy. "What power, sir, has the right to determine the truth of the Protestant religion, and to prescribe what denominations hold religious principles incompatible with the freedom and safety of the State?" Bryan exclaimed, "I answer, Sir, the General Assembly of the State! And who can tell, in all coming time, to what excesses and enormities this spirit of religious persecution may lead us, in proscribing each other, as one sect or denomination of Protestants may gain the power in our Legislature."<sup>158</sup> Kenneth Rayner replied to Dr. Smith's idea of "sleeping thunder" by saying, "Sir, when we are ready to receive a Robespierre for a master, all the moth-eaten parchments in our archives will not be able to shield us from slavery. The only guarantee of liberty, is in the Capacity of man to enjoy it."<sup>159</sup> If

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<sup>157</sup>Ibid., 244.

<sup>158</sup>Ibid., 235.

<sup>159</sup>Ibid., 261.

the revised constitution retained the Thirty-second Section, "after all the discussion on this matter," then "the crisis contemplated by the gentleman from Orange, will...have arrived; his thunder will sleep no longer, but will hurl its bolts in every direction."<sup>160</sup>

After three days of vigorous debate, state Chief Justice William Gaston rose to comment at some length on the resolution before the convention. Gaston, a Catholic and a former Federalist congressman from New Bern, was one of the most respected North Carolinians of his day. His coterie of friends and admirers included Chancellor James Kent, Justice Joseph Story, Daniel Webster, and John Randolph of Roanoke.<sup>161</sup> John Marshall had, reputedly, suggested that Gaston should replace him as the United States Chief Justice.<sup>162</sup> It was largely through Gaston's moderating influence that there had been a convention at all. When it was rumored in Raleigh that Gaston was going to speak, the galleries of the Presbyterian church rapidly filled. A reporter for the Newbern Spectator commented that "a breathless silence pervaded the vast assembly and hundreds of eyes threw their eager gaze upon his expressive countenance."<sup>163</sup>

Gaston first defended his acceptance of the position of

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<sup>160</sup>Ibid., 262.

<sup>161</sup>Schauinger, 113.

<sup>162</sup>Ibid., 130.

<sup>163</sup>Newbern Spectator, July 10, 1835.

the state Chief Justice. He recognized the conflict between the "Declaration of Rights" and the Thirty-second Section. Before accepting the position he had solicited numerous opinions. He had come to the conclusion that an individual may disbelieve something without denying it. To deny a belief involved acts of denial, something that the state did legislate on. But the state did not legislate on belief. Indeed, the "Declaration of Rights" prevented as much.<sup>164</sup> Gaston next discussed just what was the "Protestant" religion. "If the Constitution defined the Protestant religion, or if the Protestant religion were made the religion of the country, and there were organized some ecclesiastical court, or other proper tribunal, to determine its tenets and to decide on heresy, there would then be the means of legally determining what is that religion."<sup>165</sup> But nothing of that sort had been done. Such would have been impossible under Section Thirty-four which forbade the establishment of a particular religion.<sup>166</sup> Among Protestants, themselves, there was little agreement. Some held tenets rejected by others. The Episcopalians accepted the Apostle's and the Nicene Creed as basic instruments of faith. So did

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<sup>164</sup>Debates, 267; Gaston had solicited a number of opinions about his acceptance of the Supreme Court seat. See, for example, William Gaston to Thomas P. Devereux, November 3, 1833. David L. Swain Papers (Private Collection 84). North Carolina State Department of Archives and History, Raleigh.

<sup>165</sup>Debates, 267-8.

<sup>166</sup>Ibid., 268.

Roman Catholics. Yet, most authorities would consider Episcopalians to be Protestants.<sup>167</sup>

Section Thirty-two was vague and ambiguous. In these debates alone, Gaston remarked, he had heard at least six different interpretations and explanations of that unfortunate clause.<sup>168</sup> The citizens of North Carolina had pledged to uphold and defend the Constitution. Why should the delegates continue to sanction such unintelligibility? "Every officer, from the highest to the lowest, is required to take an oath that he will support, maintain and defend that Constitution; and will you intentionally and advisedly leave a clause in it, having no distinct meaning--where you refuse to declare your meaning, and where you know that your meaning is not understood, in order to alarm timid, or to ensnare unenlightened consciences?"<sup>169</sup> True, the article may not have prevented individuals from rendering public service. Catholic Governor Thomas Burke, Jacob Henry, and Gaston, himself, could attest to that. But that did not mean that

no practical evil has arisen from it. If it has impaired the attachment of any citizen to the institutions of his country, by causing him to feel that a stigma was cast, or attempted to be cast, upon him, in its fundamental law; if it has swelled the arrogance or embittered the malice of sectarian bigotry by bidding it hold up its head on high above the suspected castes of the community; if it has checked the fair expression of honest opinion, or operated as a bribe to hypocrisy

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<sup>167</sup>Ibid.

<sup>168</sup>Ibid., 270-1.

<sup>169</sup>Ibid., 272.

and dissimulation; if it has drawn down upon the Constitution of North Carolina, the double reproach of manifesting at once the will to persecute, and the inability to execute, its purpose--then, vast indeed, has been its practical mischief. But had it produced none--this would be a very insufficient apology for retaining it. Dead is it? Then is it fit for cleanly riddance. Then let us enter the carcass, lest its pestilential effluvia should poison the atmosphere of Freedom. Asleep is it? And therefore harmless? Let us take care, while we may, that it shall not awaken to pernicious activity. Now is the time for those who would perpetuate the blessings of liberty to themselves and their posterity, to expel from the Constitution the seminal principles of future oppression. Such is the infirmity and wickedness and violence of man, that a wicked principle, either in morals or in politics, never fails, at some time or other, to bring forth fruit abundantly.<sup>170</sup>

To William Gaston the Thirty-second Section confused the function of law. For men to utilize law to suppress the opinions of conscience was a gross abuse of it. Law was the proper instrument for the community to compel compliance with its wishes. But to allow that mere opinion or belief could come under this rubric was calculated "to enslave the intellect and oppress the soul--to reverse the order of nature, and make reason subservient to force."<sup>171</sup> And, for Gaston, "Law is the proper judge of action, and reward or punishment its proper sanction. Reason is the proper umpire of opinion, and argument and discussion its only fit advocates."<sup>172</sup>

After an extended discussion of the religious history of of the United States,<sup>173</sup> Gaston turned to the beliefs of his

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<sup>170</sup>Ibid., 279-280.

<sup>171</sup>Ibid., 285.

<sup>172</sup>Ibid.

<sup>173</sup>Ibid., 287-92.

own religion. The last section of his peroration dealt with his now famous exposition of the Catholic faith. He hesitated to enter into such an emotion-laden subject. The central issue of the debate, he felt, was not a man's religious views, but whether, under the constitution, these views could prevent him from holding public office. The religious issues, however, had been thrust onto the scene early in the debate. He was the only Catholic at the convention. Anything less than a clear expostulation of the faith would be avoiding his responsibility.<sup>174</sup> Gaston explained each of the points that had been raised and a number that had been inferred. He denied that Roman Catholics owed civil allegiance to the Holy Father. For Gaston the only civil allegiance he owed was "to the State of North Carolina, and, so far as she has parted with her sovereignty, to the United States of America."<sup>175</sup> All Catholics were connected to the Supreme Pontiff by "a spiritual tie." To the Pope and each ecclesiastical functionary "acting within his proper sphere, respect and obedience are due."<sup>176</sup> Using the "interrogatories" of Prime Minister William Pitt, Gaston emphasized (1) that Popes and Bishops had no direct or immediate civil authority, (2) that the Bishops of the Church could not absolve men from illicit oaths of allegiance, and (3) that no tenet of the Catholic Church forbade "in good-

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<sup>174</sup>Ibid., 293.

<sup>175</sup>Ibid.

<sup>176</sup>Ibid.

faith" transactions with non-Catholics.<sup>177</sup> He concluded his remarks on Catholicism by discussing confessions, the Church and republicanism, and Papal infallibility.<sup>178</sup>

Before returning to his seat, Gaston made one last plea for Western support.<sup>179</sup> His efforts here were in vain. James Wellborn had already proposed that the convention only modify the Thirty-second Section by striking the word "Protestant" and replacing it with the word "Christian."<sup>180</sup> The amendment had been accepted by the delegates in place of the Edwards resolution.<sup>181</sup> The anti-test forces were not finished, however. Edwards re-introduced his motion as an amendment to the amended report.<sup>182</sup> The Westerners preferred the Wellborn resolution. Charles Fisher questioned whether the delegates had the right under the convention bill to do any more than amend the disputed article.<sup>183</sup> Fisher was not willing to sacrifice "practical goods" garnered by the convention, and by the West, for the fear of illusory, "ideal evils."<sup>184</sup> He felt that the abolition of all tests was directly aimed at

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<sup>177</sup>Ibid., 295.

<sup>178</sup>Ibid., 299-300.

<sup>179</sup>Ibid., 302-3.

<sup>180</sup>Ibid., 242.

<sup>181</sup>Ibid., 309.

<sup>182</sup>Ibid.

<sup>183</sup>Ibid., 322.

<sup>184</sup>Ibid., 328.

undermining the reforms already enacted. The Edwards anti-test amendment was defeated 87 to 36.<sup>185</sup> Only four Westerners, Samuel Carson, Governor David Swain, John B. Kelly, and Henry W. Harrington, joined thirty-two Easterners in the losing effort.<sup>186</sup> Of these four Westerners, Kelly and Harrington came from counties--Moore and Richmond--bordering the East.<sup>187</sup> While both sections of the state gave majorities against the Edwards resolution, still over 42 percent of the Eastern delegates voted for test elimination; just over 7 percent of the Western men joined them. Like Dr. James Smith and Charles Fisher, most Westerners were unwilling "to meddle with this section." Easterners had nothing to lose by voting "yea"--the major Western demands had already been met. The East probably would vote against the constitutional revision in any case. The winning margin would have to come from Western counties. Why jeopardize this support by test abolition? On the final adoption of Wellborn's amendment, it was accepted 74 to 51, with the Westerners coming over in appreciable numbers.<sup>188</sup> On this vote at least two anti-test men, John Branch and former Governor John Owen, voted "nay" rather than accept compromise.<sup>189</sup>

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<sup>185</sup>Ibid., 310; and the Journal of the Convention, 49.

<sup>186</sup>Debates, 310; Debates, 3-4, and the Journal of the Convention, 3-4, for delegate listings by county.

<sup>187</sup>See the map, Appendix I, and delegate listings.

<sup>188</sup>Debates, 331-2; and the Journal of the Convention, 49.

<sup>189</sup>Debates, 331-2. Throughout these debates I have counted John Branch as Whig. See Hoffman, 116.

It seems apparent that most of the Eastern anti-test advocates were sincere in their motives. The spectre of revenge on the West for its representation victory may have passed through some minds, but from the voting and the speaking this is not apparent. Of the thirty-two Easterners who voted "yea" on the Edwards amendment, thirty voted "yea" on the Wellborn amendment.<sup>190</sup> Eleven of these thirty-two voted to retain some form of Negro suffrage; and eleven opposed Jesse Speight's motion to strike 120.<sup>191</sup> The convention preferred half a loaf to none.

#### CONVENTION: CONCLUSION

Among other actions of the delegates not mentioned in this discussion were: (1) the elimination of borough representation in the House of Commons, by a vote of 73 to 50;<sup>192</sup> (2) the provision that the governor would henceforth be elected for a two-year term by popular vote, by a 74 to 44 margin, despite the pleas of Nathaniel Macon;<sup>193</sup> (3) the institution of an amendment process;<sup>194</sup> and (4) several other reorganizations in state government.<sup>195</sup> On the final vote

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<sup>190</sup>Compare the votes, Debates, 310, 331-2.

<sup>191</sup>See Ibid., 310-, 162, 80-1. Compare Counihan, 340; there seems to have been no clear party position on these issues.

<sup>192</sup>Debates, 212.

<sup>193</sup>Ibid., 340.

<sup>194</sup>Ibid., 350.

<sup>195</sup>See generally Counihan for discussion of these issues.

to accept or reject the amendments and to submit them to the people for popular approval, the margin was 81 to 20.<sup>196</sup> The twenty negative votes were all cast by Easterners. Five of the twenty (25 percent) had voted to retain some form of free Negro franchise; six (30 percent) had voted against Speight's motion to strike 120 from the representation plan; and eleven (55 percent) had voted to eliminate all religious tests for office.<sup>197</sup> A majority of the Eastern delegates joined a unanimous West in approving the final amendments. On Saturday, July 11, the convention adjourned sine die.<sup>198</sup>

In a proclamation to the state, Governor Swain directed that the revised constitution be submitted to the electorate for ratification or rejection on November 9-12.<sup>199</sup> Immediately the state's leading newspapers and various pamphleteers and letter-writers deluged the electorate with reasons why the revision should either be rejected or accepted. As might be expected, the Western journals strongly supported ratification. Both Salisbury weeklies, the Western Carolinian and the Carolina

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<sup>196</sup>Debates, 400; and the Journal of the Convention, 102.

<sup>197</sup>The five voting to retain some form of free Negro suffrage were: Bunting, Hall, Jones, Rayner, and Whitfield. The six voting against Speight's motion were: Bonner, W.P. Williams, Ruffin, Macon, Jones and Edwards. The eleven voting against religious tests were: Bonner, Bunting, Samuel Calvert, Edwards, Hall, William Huggins, Charles Jacocks, Macon, Rayner, and W.P. Williams. Compare voting, Debates, 400, 310, 162, 80-1, and listing, 3-4.

<sup>198</sup>Debates, 402; and the Journal of the Convention, 105.

<sup>199</sup>"An Ordinance," in the Tarboro' Press, August, 1835.

Watchman, endorsed the revision.<sup>200</sup> The Carolina Watchman editorialized on July 18: "The cause of the West has triumphed most gloriously."<sup>201</sup> But the paper warned its readers against religious fanaticism. The Carolina Watchman admitted that much intolerance existed in the West but hoped "to see those petty, narrow prejudices entirely dissipated," especially before the November vote.<sup>202</sup> The Western Carolinian, which had been featuring anti-Catholic articles throughout the summer, now made haste to encourage ratification. Despite an article in its July 18 issue charging a union between Catholics and atheists, the editor, in the same issue, suggested, "Among the Amendments there may be a few matters not altogether satisfactory to some persons, but on the whole, the views and wishes of the West have been met, at least as nearly so as could have reasonably been expected." Furthermore, the revised Constitution was "one of the best, if not the very best in all the Union!"<sup>203</sup> The Whiggish Charlotte Journal chimed in its support of the revisal by stating that "if this should be rejected, they [the Easterners] would never concede us as much again....We have no fears for the Constitution as Amended."<sup>204</sup>

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<sup>200</sup>Salisbury Western Carolinian, July 18, July 25, 1835; Newbern Spectator, July 24, quoting the Salisbury Carolina Watchman.

<sup>201</sup>Newbern Spectator, July 24, quoting the Salisbury Carolina Watchman.

<sup>202</sup>Raleigh Register, August 11, 1835, quoting the Salisbury Carolina Watchman.

<sup>203</sup>Salisbury Western Carolinian, July 18, 1835.

<sup>204</sup>Charlotte Journal, July 3, 1835.

The basic Western concern had been over representation. The disfranchisement of free Negroes, few of whom lived in the West, does not appear to have been a serious bone of contention.<sup>205</sup> In the East, however, disfranchisement was debated vigorously. Both East and West had witnessed the rapid growth of anti-abolitionist publicity and local committees of vigilance during the first years of the decade. Reports of planned slave insurrections implicating free Negroes cannot have had a salutary effect on the state's voters.<sup>206</sup> Nevertheless, at least four prominent Eastern newspapers found disfranchisement objectionable. Both Fayetteville papers, the Democratic North Carolina Journal and the Whig Fayetteville Observer, editorialized at length on the subject. The Democratic organ declared, "We object to this, because it violates that portion of our Bill of Rights, which declares that no person ought to be taxed without his consent, or that of his Representative." The paper warned that "the next blow may be aimed at the White voters who do not possess a certain property qualification."<sup>207</sup> The Fayetteville Observer, taking a more

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<sup>205</sup>See the Salisbury Western Carolinian, July 18, 1835; here the paper defends delegates Charles Fisher and John Files against charges of attempting by their advocacy of "qualified suffrage" to put free Negroes "on an equal footing with white men."

<sup>206</sup>An excellent example of a rumored slave insurrection, supported by "free blacks," is printed in the Tarboro' Press, September 12, 1835. Examples can be found in other papers during these months.

<sup>207</sup>Fayetteville North Carolina Journal, November 4, 1835.

conservative line of reasoning, came to the same conclusion: "There is, so far we can learn, a general feeling of regret in this community at the total disfranchisement of the free coloured people. These are few, some eight or ten, of that class, in Fayetteville, who have every qualification of intelligence, respectability, usefulness, and property, to entitle them, fairly, to the exercise of this high privilege."<sup>208</sup> The Whig Newbern Spectator complained, "Justice...demands that this class of people [free Negroes] should be exempted from taxation, if denied a voice in elections."<sup>209</sup> And the leading Whig newspaper in the state, Joseph Gales' Raleigh Register, editorialized: "That the right of suffrage, on the part of free people of colour, was totally abrogated, is to us a source of regret,"<sup>210</sup> Other Eastern papers were not so open. The North Carolina Standard, the state's leading Democratic newspaper, remained largely silent, except for quoting the Raleigh Star in an invidious comparison between slaves and free Negroes.<sup>211</sup>

On the modification of the Thirty-second Section, several Eastern papers attacked the revised constitution for not going far enough. The Wilmington Free Press found the word "Christian"

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<sup>208</sup>Fayetteville Observer, June 16, 1835.

<sup>209</sup>Newbern Spectator, September 18.

<sup>210</sup>Raleigh Register, September 29.

<sup>211</sup>Raleigh North Carolina Standard, August 13, 1835, quoting the Raleigh Star.

unclear in meaning and added, "The very nature of the Christian Religion forbids its enforcement by law."<sup>212</sup> On a strict Jeffersonian basis, the Edenton Gazette stated, "The retention of the 32d Article in our Constitution, is a libel upon the spirit and intelligence of the age."<sup>213</sup> The Newbern Gazette declared, "its repugnance for the amended section," and this feeling was echoed by the Raleigh Register and the North Carolina Journal.<sup>214</sup>

Perhaps the most notable exchange of views on the religious question occurred in the pages of the Tarboro' Press, a Democratic paper. As early as May 30 Joshua Lawrence, a letter-writing Baptist minister, was warning readers of the Pope, "a despot and tyrant in Church and State,"<sup>215</sup> Throughout the month of July the Tarboro' Press printed a series of anonymous pamphlets authored by "Civis" and "Tolerator" opposing and defending, respectively, the modification of the test section.<sup>216</sup> In August and September a pamphlet by Lawrence, "The Mouse trying to gnaw out of the Catholic trap," was printed in the papers.<sup>217</sup> The minister expressed fear of "Catholic funds,

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<sup>212</sup>Raleigh Register, August 4, 1835, quoting the Wilmington Free Press.

<sup>213</sup>Raleigh Register, August 4, 1835, quoting the Edenton Gazette.

<sup>214</sup>Newbern Spectator, September 18, 1835; Fayetteville North Carolina Journal, November 4, 1835; Raleigh Register, September 29, 1835, quoting the Newbern Spectator.

<sup>215</sup>Tarboro' Press, May 30, 1835; see also issue of June 13.

<sup>216</sup>Tarboro' Press, July 11, July 18, August 1, 1835.

<sup>217</sup>Tarboro' Press, August 29, September 5, 1835.

intrigue and influence." Catholicism, he announced, "is not now entitled to be called the Christian religion."<sup>218</sup> The West held no monopoly on intolerance.

On the representation changes in the revised constitution, the Newbern Spectator consoled its tidewater readers that all was not lost:

The general basis of representation, in the plan submitted to the people, is far more equitable to the East than any for which we could hope, had the amendments been deferred to a future day, when the power of the West shall have increased. We think we are more indebted for this Federal basis to the solicitude of the West to call a convention immediately, than to any other cause; and had not the prudent portion of the Eastern membership meet their proposals as early as they did, even this measure of justice would be withheld from us years hence.<sup>219</sup>

The New Bern paper was, indeed, expressing the essence of the conservative compromise that Judge Gaston had talked about during the debates. On the other hand, the North Carolina Journal informed its Cape Fear Valley readers that it objected to the new representationl scheme for the same reason that the Newbern Spectator accepted it, "because it provides for the Representation of Slaves in the House of Commons. We have always thought, that the Commons should reflect the will of the people only; that is, the qualified voters of the State."<sup>220</sup> This attitude, which was shared by Eastern delegate Jesse Speight, was assailed by the Newbern Spectator as having

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<sup>218</sup>Tarboro' Press, September 5, 1835.

<sup>219</sup>Newbern Spectator, September 18, 1835.

<sup>220</sup>Fayetteville North Carolina Journal, November 4, 1835.

"created much dissatisfaction in the large interior and mountain counties [where there were few slaves], as far as a few extra-zealous demagogues can excite such a feeling, but the wiser and more discreet men of that section deem it but justice to the East that this basis [Federal numbers] should continue" for representation in the House of Commons.<sup>221</sup>

Eastern papers raised several other objections to the revision before the November vote. The Raleigh Register, the Newbern Spectator, the Fayetteville Observer, and the North Carolina Journal deplored the "disfranchisement of the Boroughs."<sup>222</sup> And the Edenton Gazette, the Raleigh Register, and the Newbern Spectator disapproved of a popularly elected governor, "a measure fraught with evil consequences; tending rather to the establishment of a mobocracy, than to the maintenance of the strict principles of Republican Government."<sup>223</sup> On whether the revised constitution should be accepted, the Raleigh Register, the Newbern Spectator, and the Fayetteville Observer--despite the "fear that the sceptre will have departed from Judah"<sup>224</sup>--urged readers to "overlook minor objections and vote for the settlement of that question [representation] which

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<sup>221</sup>Newbern Spectator, September 18, 1835.

<sup>222</sup>Fayetteville Observer, June 30; Fayetteville North Carolina Journal, November 4, 1835; Newbern Spectator, September 18, 1835; Raleigh Register, September 29, 1835, quoting the Newbern Spectator.

<sup>223</sup>Raleigh Register, August 4, 1835, quoting the Edenton Gazette; see also the Newbern Gazette, September 18, 1835.

<sup>224</sup>Newbern Spectator, July 24, 1835.

will insure peace and union within our borders."<sup>225</sup> The Tarboro' Press and the North Carolina Journal generally opposed ratification.<sup>226</sup>

Begrudging support of the revised constitution by three leading Eastern Whig newspapers appears to have had little effect on Eastern readers. In an East-West breakdown the electorate voted to accept the amended constitution, 26,771 to 21,606. Only one Eastern county, Granville, voted for the amended document. Moore and Person, in the Piedmont West, voted against it.<sup>227</sup> On December 3, 1835, Governor Swain announced these results and issued a proclamation that the amended constitution would go into effect on January 1 of the new year.<sup>228</sup> North Carolina had reformed her constitution.

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<sup>225</sup>Fayetteville Observer, October 27, 1835; see also Newbern Spectator, September 18, 1835; Raleigh Register, September 29, 1835.

<sup>226</sup>Fayetteville North Carolina Journal, November 4, 1835; Tarboro' Press, November 21, November 28, 1835.

<sup>227</sup>See my vote tabulations, Appendix VI.

<sup>228</sup>Counihan, 361.

## EPILOGUE

From time to time various historians have pictured the North Carolina Constitutional Convention of 1835 as either an example of the triumph of Jacksonian Democracy or the victory of a progressive and Whiggish West over a conservative and Democratic East.<sup>229</sup> Sometimes both theses are quoted side-by-side in the same interpretation--as if the "progressive" Whigs could somehow metamorphorize into Jacksonians!<sup>230</sup> Herein lies the central problem or problems for an historian of this convention and the events and personalities surrounding it: just how does the North Carolina convention measure up by standard premises, Jacksonian and otherwise, about the period? And, secondly, taking into account the results of the convention, why is the convention important?

The constitutional convention that occurred in Raleigh in 1835 was not the result of triumphant Jacksonianism. Further, the debates of the convention illustrate that the actions of the delegates bore little relationship to national political concerns. It is significant that the two men most instrumental in calling the convention were the anti-Jacksonians, David Swain and William Gaston.

Jacksonians like Jesse Cooper and Jesse Speight were staunchly opposed to all innovation. The Democratic Tarboro'

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<sup>229</sup>See for example Norton, 43-4, and Hamilton, 9.

<sup>230</sup>The Counihan article has this distinction despite its valuable analysis.

Press went so far as to commend Speight and Cooper for their steadfast opposition.<sup>231</sup> Although it would be incorrect to assert that all reformers were Whiggish or anti-Jacksonian, a large proportion were.

Well, then, since Western Whigs favored a convention and a large majority in the Democratic East opposed it, can we say that the convention was a battleground between a progressive and Whiggish West and a conservative and Democratic East? Not really. This categorization is too simplistic. That the major issues were sectional is a truism, but we do an injustice to North Carolina politics if we let this division stand unqualified. Objectionable is the use of the words "progressive" and "conservative" as they have been applied to the convention.<sup>232</sup> To place "reformers" such as Swain, Fisher, or Gaston in the forefront of the legions of democracy distorts them. They were "progressive" in the sense that they desired change--"justice," as Gaston and Swain called it--for all North Carolinians. Yet, the mixed suffrage plan they effected was, even by contemporary standards, "conservative." Both the Charlotte Journal and the Newbern Spectator agreed that it was "prudent" to accept such a plan. The representational reform adopted by the convention was essentially a cautious compromise which continued to recognize the primacy of the State's propertied interests.

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<sup>231</sup>Tarboro' Press, September 5, 1835.

<sup>232</sup>Hamilton, 9; Norton, 44.

Voting requirements were not modified until 1857 when a newly invigorated Democratic party secured the final passage of a constitutional amendment eliminating property requirements. As early as the election of 1848 David S. Reid had seized upon "free suffrage" as a bridge to Democratic victory. The Whigs, entrenched in state government since reaping the fruit of "their" convention in the elections of 1836, replied in like kind by attacking Democratic inconsistency and championing elimination themselves. When a taxation basis for suffrage was finally attained, both parties could claim some credit.<sup>233</sup>

Why is the North Carolina convention of 1835 important? Besides the immediate changes it produced in North Carolina government and its lack of adherence to Jacksonian forms, its significance is difficult to finger. The debates over free Negro disfranchisement do say something about the feelings of the people "back home." The length of this debate and the closeness of the vote indicate that North Carolinians were far from being closed-minded about the subject. Racial antipathies were present. Rumors of slave insurrections and vivid accounts of the Murrell gang appeared weekly in the press during 1835; and what is striking was that so many delegates were seemingly unprejudiced by these antipathies. Whether they remained this way is another question. Judge Gaston continued to defend the state's Negroes, both slave and free, until his death in

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<sup>233</sup>Norton, 131-7; see also Williamson, 234-9.

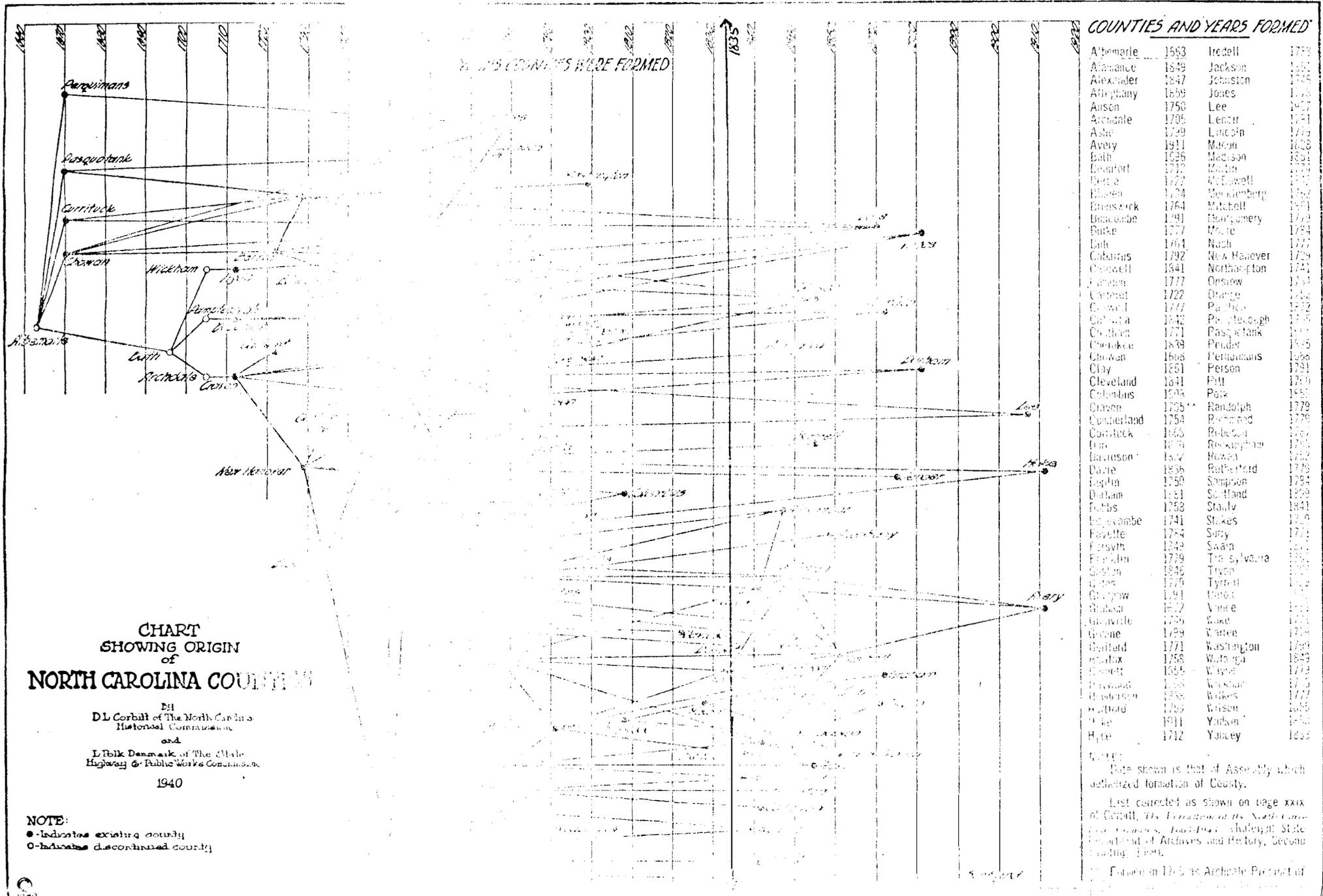
1844. But Gaston was only one man.

The test question is another matter altogether. If anything the debates over the religious test for public office produced much rhetoric and few results. If all that can be said about this issue is that it gauged the opinions and sentiments of one hundred and thirty of North Carolina's leaders on the basic issue of religious toleration, is not that important? Taking into consideration sectional caveats over the reasons behind test reform, still this debate is extremely significant. That an old Jeffersonian like Nathaniel Macon and a young Whig like Kenneth Rayner could reach similar conclusions is fundamental to the idea of complexity that this study has attempted to portray. That both Macon and Rayner were working from identical philosophical assumptions on religious liberty is more significant, since it helps the historian see beyond some of the complexity. As with representation and race, the religious issue was no respecter of parties.

Not all questions that may be asked about the North Carolina Constitutional Convention of 1835 have been considered in this study. Individual motivations are difficult to determine when correspondence or personal papers are non-existent. More noticeably, other issues were given short shrift, arbitrarily, because they were far less important both in retrospect and in the amount of time devoted to them at the convention. The convention concerned itself, essentially, with race, representation, and religion.



# APPENDIX II: CHART



APPENDIX III: POPULATION OF NORTH CAROLINA

	Total	Free white	Free Negro	Slaves
1790	222,171	181,111	1,115	40,945
1820	421,111	341,111	1,111	78,889
1850	771,111	611,111	1,111	158,889
1880	1,111,111	911,111	1,111	198,889
1900	1,611,111	1,311,111	1,111	298,889

From Ninth Census of the United States, 1870. Department of the Interior. Washington, 1872, 3-7.

APPENDIX IV: POPULATION OF NORTH CAROLINA IN TWENTY-FIVE COUNTIES WITH THE HIGHEST CONCENTRATIONS OF FREE NEGROES, 1830.

County	Free Negroes	Whites	Slaves
Beaufort	477	4,517	1,111
Brunswick	401	3,601	1,111
Darwell	352	3,377	1,111
Chatham	272	10,073	5,000
Craven	1,003	8,602	3,123
Cumberland	516	9,011	5,000
Franklin	363	5,337	4,660
Gates	327	3,171	3,000
Granville	577	2,470	2,100
Guilford	312	12,101	2,100
Hillsborough	2,107	2,170	4,700
Johnston	353	3,170	3,110
Martin	317	1,811	3,170
Nash	233	4,501	3,106
New Hanover	333	7,107	7,107
Northampton	430	5,211	7,212
Orange	318	4,110	7,373
Rasputark	1,033	4,112	2,011
Rocky-mona	313	4,327	2,117
Randolph	353	10,211	1,111
Robeson	303	3,311	2,111
Sampson	211	7,207	3,111
Stokes	233	13,112	2,111
Wake	333	11,116	3,107
Warren	212	1,251	7,311

Only five of these counties are western: Guilford, Orange, Chatham, Randolph, and Stokes.

From Ninth Census, 53.

APPENDIX V : WHITE AND SLAVE POPULATION CHANGES  
IN WESTERN NORTH CAROLINA COUNTIES, 1790-1860.

	1790		1830		1840		1860	
	slave	white	slave	white	slave	white	slave	white
Alamance							3445	7,985
Alexander							641	5,387
Alleghany							280	3,351
Anderson	828	4204	4773	2,157	5304	3,633	6951	6,561
Ashe			492	6,295	427	6,911	391	7,423
Burke			1000	14,533	1199	8,798	1223	10,510
Cabarrus	572	7512	3020	14,050	2915	12,319	2371	6,215
Catawba			2233	6,537	2179	5,971	2040	7,331
Chatham							100	1,100
Cherokee	2770	730	540	3,322	7074	7,353	9355	6,527
Columbus							1504	2,033
Crowder					199	3,205	510	3,232
Curry							1121	10,111
Davidson			1018	11,321	2022	11,007	3075	10,200
DeWitt					1882	5,591	2392	6,011
Durham							1754	10,210
Gaston							2194	2,637
Graham	516	6048	2594	15,761	2647	15,291	3525	15,738
Guilford			291	4,224	306	4,550	313	5,274
Hertford					400	4,028	1382	3,981
Hoke	853	4570	3582	11,206	3750	11,930	4177	11,252
Iredell							268	2,271
Jones	938	8239	4332	17,505	5342	19,658	2115	5,956
Lincoln			458	4,817	308	4,410	519	3,315
Martin							212	2,028
McDowell							1305	5,542
Mecklenburg	1003	9722	7140	12,737	6322	11,850	6541	10,534
MitCHELL	834	3886	2295	5,514	2487	8,221	1823	5,780
Montgomery	371	3387	1573	5,916	1472	6,413	2514	3,725
Orange	2060	10055	7373	15,916	6954	16,771	5108	11,311
Person			4432	5,447	4351	5,229	5195	3,708
Polk							620	3,312
Randolph	452	6800	1462	10,504	1407	11,107	1606	11,710
Richmond	563	4417	3512	5,731	3080	4,693	2453	5,211
Rockingham	1100	5077	4296	8,423	4572	8,593	6312	10,019
Rowan	1742	13984	5189	14,462	3005	8,300	3930	10,427
Rutherford	614	7194	3380	11,974	3021	12,372	2391	9,358
Stanly							1190	2,337
Stokes	727	7725	2541	13,122	2632	13,228	2759	7,857
Surry	698	6470	1945	12,374	1776	13,093	1240	6,950
Talbot							2210	3,900
Tarboro							104	4,772
Wayne	549	7592	1492	10,139	2430	13,975	1207	11,230
Yadkin							1132	2,000
Yancey					264	4,541	362	2,220
Totals	43,001	123,896	79,703	201,63	82,440	274,320	106,537	341,759

The percentage of slaves in the western counties of North Carolina increased from 18 per cent in 1790 to almost 32 per cent in 1830, levelling off at this figure for the next three decades. Of white population in the West, the percentage of total whites went from 43 to 54 per cent between 1790 and 1860, with a peak percentage of 50 in 1840.

From Ninth Census, 53.

APPENDIX VI: VOTE TABULATIONS

"VOTE OF THE PEOPLE ON THE QUESTION OF RATIFICATION OR REJECTION OF THE NEW CONSTITUTION," in Debates, Appendix.

EAST		WEST		
	For	Against		
Bedford	48	186	Warren	51
Berlin	37	215	Windsor	455
Bladen	1	564	Woodsboro	1,322
Brunswick	3	166	Yancey	1,359
Cameron	61	233	Yorck	500
Carteret	22	222	Zachary	455
Chowan	7	222	Chatham	566
Craven	2	301	DeWitt	1,051
Craven	121	270	Fayette	971
Durham	251	132	Forsyth	481
Gaston	22	117	Franklin	1,191
Dublin	54	522	Lincoln	1,227
Edgecombe	23	1,242	Macon	402
Franklin	35	517	Rockingham	1,237
Hatteras	12	522	Montgomery	523
Haywood	133	222	Moore	110
Greene	1	522	Orange	1,031
Halifax	253	441	Person	10
Hertford	7	376	Robeson	423
Johnston	2	451	Richmond	263
Jones	73	274	Rockingham	612
Jones	27	239	Surry	1,570
Martin	14	726	Townsend	1,257
Macon	3	757	Watauga	1,001
New Hanover	54	227	Watts	1,751
Onslow	7	277	Wilkes	1,737
Pasquotank	7	412	Yancey	561
Perquimans	10	131		26,771
Robeson	26	122		21,605
Sampson	212	163		
Tyrrell	1	452		
Wake	242	1,124		
Warren	16	430		
Washington	31	422		
Wayne	24	254		
Wenatch	51	370		
Witt	12	713		

A 5,165 VOTE MAJORITY FOR

APPENDIX VII:

A DIRECTORY OF DELEGATES TO THE CONVENTION OF 1835\*

- ADAMS, JESSE - Johnston County; Whig; in the House of Commons, 1812-17; in the Senate, 1819.
- ANDRES, SAMUEL B. - Bladen County; Whig; in the House of Commons, 1821; in the Senate, 1808-10.
- ARRINGTON, JOHN - Nash County; Democrat.
- AVERITT, JOHN A. - Onslow County; Democrat; in the House of Commons, 1836-38.
- BAILEY, JOHN L. (1795-1877) - Pasquotank County; Whig; in the House of Commons, 1824; in the Senate, 1827-28, 1832; a superior court judge, 1837-63.
- BARRINGER, DANIEL M. (1806-1873) - Cabarrus County; Whig; in the House of Commons, 1829-34, 1840-44; studied law with state Chief Justice Thomas Ruffin; in U.S. House of Representatives, 1843-49; appointed Envoy to Spain by President Zachary Taylor; a delegate to the peace conference of 1861.
- BAXTER, ISAAC - Currituck County; independent.
- BIGGS, ASA (1811-1878) - Martin County; Democrat; Lawyer; in House of Commons, 1840-44; in Senate, 1844-5, 1854-5; in U.S. House of Representatives, 1845-47; in U.S. Senate, 1855-58; a Federal judge, 1858-61; a delegate to the secession convention of 1861; a Confederate judge, 1861-65; connected with internal improvements.
- BIRCHETT, THEODORICK F. - Rutherford County; independent; a local Rutherford official; connected with internal improvements.
- BODDIE, WILLIAM W. - Nash County; independent; in the House of Commons, 1818-19; in the Senate, 1820-26, 1828-32.
- BONNER, RICHARD H. - Beaufort County; Whig; in the House of Commons, 1831-33.
- BOWER, GEORGE - Ashe County; Democrat, in the House of Commons, 1842-44; in the Senate, 1812-17, 1848-56.

BRANCH, JOHN (1782-1863) - Halifax County; Whig (on other occasions, a Democrat); graduated from the University of North Carolina; studied law under state Supreme Court Justice, Archibald Henderson; in the Senate, 1811, 1813, 1822; Governor of North Carolina, 1817-20; in U.S. Senate, 1823-29; appointed Secretary of the Navy, 1829, resigning over Peggy Eaton affair in 1831. He helped organize the Whig Party, 1831-1834; candidate for governor in 1838 as a Democrat; appointed by President John Tyler to be Governor of Florida Territory, 1844-45; returned to North Carolina after the death of his wife a few years later. He was also connected with internal improvements agitation. Branch was astute, ambitious and erratically capable.

BRITAIN, BENJAMIN S. - Macon County; Democrat; in the Senate, 1832-35.

BROADNAX, EDWARD T. - Rockingham County; Whig; in the House of Commons, 1822-23; in the Senate, 1828; connected with internal improvements.

BRYAN, JAMES W. (1805-1864) - Carteret County; Whig; in the Senate, 1835-38; a successful lawyer, planter, and businessman; a graduate of the University of North Carolina; a local Whig luminary.

CALVERT, SAMUEL - Northampton County; independent; in the House of Commons, 1833.

CANSLER, HENRY - Lincoln County; Democrat; in the House of Commons, 1831-32, 1834-38; also connected with internal improvements.

CARSON, JOSEPH McDOWELL - Rutherford County; Whig; in the House of Commons, 1812-14, 1835; in the Senate, 1832, 1836-40.

CARSON, SAMUEL P. (1798-1838) - Burke County; Whig; in Senate, 1822-24, 1834; in U.S. House of Representatives, 1825-1833, as a Democrat. He was defeated because of his strong pro-nullification stand. In 1836 he moved to Texas where he was elected to its first Constitutional Convention, selected as Commissioner to United States, and served as Secretary of State, 1836-38, of the new republic. Carson was known as a ruggedly honest man who engaged in duels.

CATHEY, JOSEPH - Haywood County; independent; in the Senate, 1842-44.

CHALMERS, CHARLES - Moore County; Whig.

COLLINS, JOSIAH, JR. - Washington County; Whig; in Senate, 1832-33. His family owned "Somerset Plantation."

COOPER, JESSE - Martin County; Democrat; in the House of Commons, 1822, 1825-30; in the Senate 1831, 1834-44.

COX, JAMES - Lenoir County; Democrat; in the House of Commons, 1822, 1824-26.

CRUDUP, JOSIAH - Granville County; Whig; a minister.

DANIEL, JOSEPH J. (1783-1848) - Halifax County; Democrat; attended the University of North Carolina for a short time, then studying law under William R. Davie; in the House of Commons, 1807; a superior court judge, 1816-32; a state Supreme Court justice, 1832-48. He was connected with internal improvements. Judge Daniel was learned but eccentric.

DOBSON, WILLIAM P. - Surry County; Democrat; in the Senate, 1818-19, 1830-34, 1836-38.

DOCKERY, ALFRED (1797-1875) - Richmond County; Whig; a planter; in the House of Commons, 1822; in the Senate, 1836-45; in the U.S. House of Representatives, 1845-47, 1851-53; unsuccessful Whig candidate for governor, 1854; connected with internal improvements.

EDWARDS, WELDON N. (1788-1873) - Warren County; Democrat; a planter; educated at Warrenton Academy; studied law with Supreme Court judge John Hall; in the House of Commons, 1814-15; in the Senate, 1833-44, 1850-54; in the U.S. House of Representatives, 1817-27; protege and nephew of Nathaniel Macon. He was president of the secession convention of 1861.

ELLIOTT, BENJAMIN - Randolph County; independent; in the Senate, 1831; connected with internal improvements.

FAISON, THOMAS - Sampson County; Democrat.

FEREBEE, GEORGE - Camden County; Whig.

FISHER, CHARLES (1789-1849) - Rowan County; Democrat; a prominent lawyer; in the House of Commons, 1822-23, 1826-33; in the Senate, 1818; in the U.S. House of Representatives, 1819-21, 1839-41; leader of Western Democrats.

FRANKLIN, MESHACK (d. 1841) - Surry County; Democrat; in the House of Commons, 1800; in the Senate, 1828-29, 1838-40; in the U.S. House of Representatives, 1807-1815; connected with internal improvements.

- GAINES, JAMES L. - Montgomery County; Whig; connected with internal improvements.
- GAITHER, BURGESS S. (1807-1892) - Burke County; Whig; educated at University of Georgia; a lawyer; in the Senate, 1840-42, 1844-46, serving as president; a solicitor, 1844-52; served in Confederate congress, 1862-65.
- GARY, RODERICK B. - Northampton County; Whig; in the House of Commons, 1821-30, 1832, 1836-38.
- GASTON, ALEXANDER B. - Hyde County; Whig.
- GASTON, WILLIAM (1778-1844) - Craven County; Whig; educated at Princeton College; first student at what was to become Georgetown University; a lawyer in practice at New Bern; in the House of Commons, 1807-09 (speaker, 1808), 1824, 1827-29; in the Senate, 1800, 1812, 1818-19; in the U.S. House of Representatives, 1813-17; a judge, N.C. Supreme Court, 1833-44. Gaston was of the old Federalist-National Republican tradition found in Eastern tidewater sections of the state. He possessed one of the most brilliant legal minds of his day. He was also connected with internal improvements.
- GATLING, RIDDICK - Gates County; independent; in the House of Commons, 1842-48.
- GILES, JOHN - Rowan County; Whig.
- GILLIAM, ROBERT B. (1805-1870) - Granville County; Whig; educated at the University of North Carolina, in the House of Commons, 1836-40, 1846-50, 1862 (speaker, 1848 and 1862); a superior court judge, 1863-65; 1867-68. He was elected to the U.S. House of Representatives in 1870, but died before his term began.
- GRAVES, CALVIN - Caswell County; Democrat; in the House of Representatives, 1840-46; in the Senate, 1846-50 (president, 1848).
- GRAY, ALEXANDER - Randolph County; independent; in the Senate, 1799, 1804-07, 1812, 1823, 1826-28; connected with internal improvements.
- GRIER, ISAAC - Mecklenburg County; independent.
- GUDGER, JAMES - Buncombe County; Whig; in the Senate, 1830, 1836-38.
- GUINN, JAMES W. - Macon County; Democrat; in the House of Commons, 1833-38; connected with internal improvements.

- HALL, WILLIAM R. - Brunswick County; Whig; in the Senate, 1830-33; connected with internal improvements.
- HALSEY, JOSEPH - Tyrrell County; Whig; in the Senate, 1844-50.
- HARGRAVE, JOHN L. - Davidson County; Whig; in the Senate, 1836-38; connected with internal improvements.
- HARRINGTON, HENRY W. - Richmond County; independent.
- HILL, FREDERICK J. (1790-1861) - Brunswick County; Whig; a physician and planter at "Orton House"; in the House of Commons, 1836-42; in the Senate, 1835; connected with internal improvements.
- HODGES, WILSON B. - Hyde County; Whig; in the Senate, 1842-44.
- HOGAN, JOHN A. - Davidson County; Whig; in the House of Commons, 1831; in the Senate, 1832-38; connected with internal improvements.
- HOLMES, OWEN - New Hanover; Democrat; in the Senate, 1834, 1844-46.
- HOOKER, THOMAS - Greene County; Democrat; in the House of Commons, 1835-38.
- HOWARD, JAMES W. - Jones County; Whig; in the House of Commons, 1831, 1835-38; in the Senate, 1842-44; connected with internal improvements.
- HUGGINS, WILLIAM - Jones County; independent; in the House of Commons, 1838-42.
- HUSSEY, JOHN E. - Duplin County; Democrat; in the House of Commons, 1815-18; in the Senate, 1825, 1832-38.
- HUTCHESON, JAMES M. - Mecklenburg County; Democrat; in the House of Commons, 1834-38.
- JACOCKS, JONATHAN H. - Perquimans County; Whig; in the House of Commons, 1835; in the Senate, 1822.
- JERVIS, ABNER - Yancey County; independent.
- JOINER, JOHN - Pitt County; Whig; in the House of Commons, 1821; in the Senate, 1824-28.
- JONES, EDMUND W. (1811-1876) - Wilkes County; Whig; educated at the University of North Carolina; in the Senate, 1842-44, 1868-70; a delegate to secession convention of 1861 and to the convention of 1875; served in the Council of State, 1866; connected with internal improvements.

- JONES, KIMBROUGH - Wake County; Democrat; in the House of Commons, 1809-12, 1819.
- KELLY, JOHN B. - Moore County; Whig; in the Senate, 1818.
- KING, SAMUEL - Iredell County; independent; in the House of Commons, 1812-14, 1816-19; in the Senate, 1826; connected with internal improvements.
- LEA, WILLIAM A. - Caswell County; Democrat; in the House of Commons, 1836-38.
- LESUEUR, JOHN L. - Rockingham County; Whig; connected with internal improvements.
- MACON, NATHANIEL (1757-1837) - Warren County; Democrat; educated at Princeton College; served as private in a local regiment during the Revolution; in the Senate, 1780-82, 1784-85; in the U.S. House of Representatives, 1791-1815 (serving as Speaker of the House, 1801-06); in the U.S. Senate, 1815-28 (serving as President pro tempore, 1825-27); president of the U.S. Electoral College, 1836. He received the electoral votes of Virginia for the Vice-Presidency in 1824, and he was the candidate of Georgia Republicans the same year. During his legislative career he was one of the most powerful and respected men in Washington. As a leading "old republican" he and his party controlled North Carolina for the first thirty years of the nineteenth century. Macon was an honest, conservative, simple man who enjoyed working on his large plantation or hunting with his friend, John Randolph of Roanoke.
- MARCHANT, GIDEON - Currituck County; Democrat.
- MARSTELLER, LEWIS H. - New Hanover; Democrat; chief clerk in the House of Commons, 1842-44; at Wilmington he served as clerk of court, port collector, and Major General of the militia. He was also an actor.
- MARTIN, JOHN B. - Montgomery County; Whig.
- McDIARMID, ARCHIBALD - Cumberland County; independent; in the House of Commons, 1826-27; in the Senate, 1828-29, 1838-42.
- McMILLAN, ALEXANDER B. - Ashe County; Whig; in the House of Commons, 1821-24, 1840-42, 1850-2; in the Senate, 1826-27, 1844-48.
- McPHERSON, WILLIE - Camden; independent.

- MCQUEEN, HUGH - Chatham County; Whig; in the House of Commons, 1829-30, 1831-33; in the Senate, 1834-36; Attorney General of North Carolina, 1840-42; removed to Texas where he was prominent in the new republic. He was also connected with internal improvements.
- MEARES, WILLIAM B. - Sampson County; Whig; in the Senate, 1828-30, 1833 (from New Hanover County). Meares was a candidate for Governor of North Carolina in the early 1830's.
- MELCHOR, CHRISTOPHER - Cabarrus County; Whig; in the House of Commons, 1819-24; in the Senate, 1829-31, 1836-40, 1846-48.
- MONTGOMERY, WILLIAM (1789-1884) - Orange County; Democrat; a physician; in the Senate, 1824-27, 1829-35; in the U.S. House of Representatives, 1835-41; connected with internal improvements.
- MOORE, MATTHEW R. - Stokes County; Whig; in the Senate, 1833, 1835-42; connected with internal improvements.
- MOREHEAD, JOHN MOTLEY (1798-1866) - Guilford County; Whig; educated at the University of North Carolina; a successful lawyer; in the House of Commons, 1821 (from Rock-bridge County), 1826-27, 1858-60. He was Governor of North Carolina, 1841-45, president of the Whig national convention of 1848, delegate to the peace conference of 1861, and a member of the Confederate provisional congress. Deeply interested in internal improvements, he did much to inspire railroad construction in the state.
- MORRIS, WILLIAM A. - Anson County; Democrat; in the House of Commons, 1828-31; in the Senate, 1832-33.
- NORCOM, JOSEPH C. - Washington County; Whig; in the House of Commons, 1842-44.
- OUTLAW, DAVID (1806-1868) - Bertie County; Whig; educated at the University of North Carolina; a lawyer; in the House of Commons, 1831-34, 1854-58; in the Senate, 1860-61; in the U.S. House of Representatives, 1847-53. He was connected with internal improvements.
- OWEN, JOHN (1787-1841) - Bladen County; Whig; educated at the University of North Carolina; a planter; in the House of Commons, 1812-13; in the Senate, 1819-20, 1827. He was Governor of North Carolina, 1828-30; and refused re-election. He was president of the Whig convention at Harrisburg in 1840. He was also connected with internal improvements.

PARKER, JONATHAN - Guilford County; Democrat; in the House of Commons, 1800-1804; in the Senate, 1807-09, 1811-15, 1821-28, 1832, 1834.

PEARSALL, JEREMIAH - Duplin County; Whig; in the Senate, 1823-24.

PIPKIN, ISAAC - Hertford County; Democrat.

POWELL, ABSALOM - Columbus County; independent; in the House of Representatives, 1818, 1840-42.

POWELL, JOHN W. - Robeson County; independent.

RAMSAY, JOSEPH - Chatham County; Democrat.

RAMSEY, RICHARD H. - Pasquotank County; independent.

RAYNER, KENNETH (1808-1884) - Hertford County; Whig; in the House of Commons, 1835-1836, 1846-52; in the Senate, 1852-54; in U.S. House of Representatives; 1839-45; member of the commission on the Alabama claims; and solicitor of the U.S. Treasury, 1877-84. An ardent Whig, he became a leading member of the American party, and wrote one of its secret degrees. After the war, he supported President Andrew Johnson, and wrote anonymously a campaign life of him. He then became a supporter of Ulysses Grant, and a Republican.

ROULHAC, JOSEPH B. G. - Bertie County; independent; connected with internal improvements.

RUFFIN, HENRY J. G. - Franklin County; Whig; in the House, 1827; in the Senate, 1828; connected with internal improvements.

SAUNDERS, DAVID W. - Onslow County; Whig; connected with internal improvements.

SAWYER, SAMUEL T. - Chowan County; Whig; a lawyer; in the House of Commons, 1829-32; in the Senate, 1834; in U.S. House of Representatives, 1837-41; later was editor of the Norfolk Argus in Virginia. He was connected with internal improvements.

SEAWELL, HENRY (1772-1835) - Wake County; Democrat; in the House of Commons, 1797, 1799-1802, 1810, 1812; in the Senate, 1821-26, 1831-32, a superior court judge, 1811, 1813-19, 1832-35. Judge Seawell, "a man of strong intellect and little education," was also a commissioner in negotiations leading to the Treaty of Ghent.

- SHERARD, GABRIEL - Wayne County; Whig; in the Senate, 1824, 1827-31, 1833-34; connected with internal improvements.
- SHIPP, BARTLETT - Lincoln County; Whig; in the House of Commons, 1824, 1826, 1828-30; in the Senate, 1834; connected with internal improvements. He was an important Whig leader in Western North Carolina.
- SHOBER, EMANUEL - Stokes County; independent; in the Senate, 1819-20, 1822, 1824, 1827-28; connected with internal improvements; prominent Moravian layman.
- SKINNER, JOSEPH B. (1780-1851) - Chowan County; independent; a successful lawyer and planter; studied at Princeton College and read law under Samuel Johnston; in the House of Commons, 1807, 1814-15 (from Edenton); in the Senate, 1833. He was a pioneer in the Albemarle Sound fishing industry.
- SMITH, BACCHUS J. - Yancey County; independent.
- SMITH, JAMES S. (1790-1859) - Orange County; Whig; a physician, educated at Jefferson Medical College; in House of Commons, 1821; in U.S. House of Representatives, 1817-21.
- SPAIGHT, RICHARD DOBBS, JR. (1796-1850) - Craven County; Democrat; educated at the University of North Carolina; in the House of Commons, 1820-22, 1825-44; in the U.S. House of Representatives, 1823-25. Spaight was Governor of North Carolina, 1835-37. He was defeated in the first election held under the revised constitution.
- SPEIGHT, JESSE (1795-1847) - Greene County; independent; in the House of Commons, 1822; in the Senate, 1823-29 (as speaker, 1828-29); in the U.S. House of Representatives, 1829-37. He later moved to Mississippi, serving as speaker of the lower house there. He served in the U.S. Senate, 1845-47, from Mississippi as a Democrat. He was connected with internal improvements.
- SPRUILL, HEZEKIAH G. - Tyrrell County; Whig; in the House of Commons, 1831; in the Senate, 1836-44.
- STALLINGS, WHITMEL - Gates County; Democrat; in the House of Commons, 1831-32, 1835-42; in the Senate, 1842-48.
- STYRON, WALLACE H. - Carteret County; independent.
- SUGG, PHE Stanton S. - Edgecomb County; independent.

- SWAIN, DAVID LOWRY (1801-1868) - Buncombe County; Whig; attended the University of North Carolina in 1821; in the House of Commons, 1824-26, 1828-29; a superior court judge, 1830-32; Governor of North Carolina, 1832-35; President of the University of North Carolina, 1835-68. Swain was an able governor and a respected university administrator. His efforts to collect an archives at Chapel Hill are noteworthy. A conservative Whig, Swain was displaced as president of the university in 1868 by the Republicans. He was also connected with internal improvements.
- TAYLOE, JOSHUA - Beaufort County; Whig; a port collector at Ocracoke Harbor; in the Senate, 1844-6.
- TOOMER, JOHN D. (d. 1856) - Cumberland County; Whig; educated at the University of North Carolina; a lawyer; a superior court judge, 1818-19; appointed to the Supreme Court in 1829 but not approved; again a superior court judge, 1837-40. In the interim, he was in the House of Commons, 1826; in the Senate, 1831-32. Toomer was also connected with internal improvements.
- TROY, ALEXANDER - Columbus County; Whig; in the Senate, 1822; connected with internal improvements.
- WELCH, WILLIAM - Haywood County; independent; in the Senate, 1829-30.
- WELLBORN, JAMES - Wilkes County; Whig; in the Senate, 1796-1811, 1817-21, 1823-24, 1828-29, 1832, 1834-35.
- WHITE, JOSEPH - Anson County; Whig; in the House of Commons, 1820-24, 1829-30.
- WHITFIELD, LEMUEL H. - Wayne County; independent.
- WILDER, HILLORY - Johnston County; Democrat; in the House of Commons, 1821, 1823-29; in the Senate, 1830, 1832-34.
- WILLIAMS, JOHN W. - Person County; Whig; in the Senate, 1838-44.
- WILLIAMS, ROBERT, SR. (d. 1842) - Pitt County; independent; a surgeon to the Continental Army; a delegate to convention of 1788 which rejected the U.S. Constitution; in the House of Commons, 1786-87, 1790-91; in the Senate, 1793-95, 1802-06, 1808, 1813-14. Like Macon, he was an old Jeffersonian.
- WILLIAMS, WILLIAM P. - Franklin County; Democrat; in the House of Commons, 1838-40; in the Senate, 1829-32, 1842-44; connected with internal improvements.

WILSON, JESSE - Perquimans County; Whig; in the Senate, 1834-35.

WILSON, LOUIS D. (1789-1847) - Edgecomb County; Democrat; in the House of Commons, 1815-19; in the Senate, 1820, 1824-32, 1838-47 (as speaker, 1842); a presidential elector in 1836 for Van Buren and Johnson. A major general in the state militia, Wilson volunteered for service against Mexico in 1846, commanding an army regiment. He died with fever between Vera Cruz and Mexico City.

WOOTEN, COUNCIL - Lenoir County; Democrat; in the House of Commons, 1829-32, 1835, 1848-50.

YOUNG, JOHN M. - Iredell County; Whig; in the Senate, 1835; connected with internal improvements.

\*SOURCES FOR THIS DIRECTORY: Biographical Directory of the American Congress, 1774-1961. Washington, 1961; Harold J. Counihan, "The North Carolina Constitutional Convention of 1835: A Study in Jacksonian Democracy," North Carolina Historical Review. XLVI (October, 1969), 335-364; J.G. de Roulhac Hamilton (ed.). The Papers of William A. Graham. 4 vols. Raleigh, 1957-61; A North Carolina Manual, 1913. Raleigh, 1913; John H. Wheeler. Historical Sketches of North Carolina, From 1584 to 1851. 2 vols. Philadelphia, 1851. Fuller studies of Macon, Branch, Morehead, Swain, Gaston, Biggs, Spaight, and Owen exist in books and articles which may be found in the bibliography.

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