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Select Poetry.

QUT ON PICKET

Out on picket,
Crouching, hiding 'neath the thicket,
Scared at every twig that falls.
Oh, confound me!
I can hear them all around me—
Hear those awful Minie balls.

"Ping! ping! ping!"
Oh, what a deadly song they sing!
Why do they shoot at me, I wonder?
"Say, old fellow!
You whose pants are striped with yellow,
D'you want to kill me dead as thunder?

"Louisiana,!
That's a kind of off-hand manner,
Shooting men you never knew.
Now, just stop that,
Else, you see, I'll take a pop at
All such looking men as you."

Past me rushes
Another ball into the bushes.
"Look out for a leaden pebble!"
So exclaiming
This to him while I was aiming—
"Crack!" and dying lay the rebel!

So on picket,
Peeping from behind the thicket,
All day long we kept up shooting,
How exciting,
After once you're used to fighting,
Taking rebels off their footing!

'Tis delightful,
Though at first it seems so frightful,
Killing people in this manner:
Just remember,
It was only last December
THAT THEY SPAT UPON OUR BANNER!

NON-SUITING A CREDITOR.

There was a certain lawyer on the Cape a long time ago, a man well to do in the world and what was something surprising in a limb of the law, averse to encouraging litigation.

One day a client came to him in a violent rage.

"Look a here squire," said he, "that ere blasted shoemaker down to Pigeon Cove has went and sued me for the money I owed him."

"Did the boots suit you?"

"Oh! yes. I've got 'em on; furst rate boots."

"Fair price?"

"Oh, yes."

"Then you owe him the money honestly."

"Course."

"Well, why don't you pay him?"

"Why, cause the blasted snob went and sued me, and I want to keep him out of the money if I can."

"It will cost you something."

"I don't keer a kuss for that! How much do you want to begin with?"

"Oh, ten dollars will do."

"Is that all? Well, here's ten, so go ahead!" said the client, "that's the pay in the beginning."

Our lawyer next called on the shoemaker and asked him what he meant by commencing legal proceedings against M.

"Why," said he, "I kept on sending to him till I got tired. I know'd he was able to pay and I was determined to make him. That's the long and short of it."

"There's a trifle to pay on account of your proceedings—but I think you had better take this five dollar bill and call it square."

"Certain, squire, if you say so, and darned glad to get it," was the answer.

So the lawyer gave him one V and kept the other. In a few days the client came along, and asked him how he got along with the case.

"Rapidly cried the lawyer: we've nonsuited him, he'll never trouble you."

"Jerusalem! that's great!" cried the client. I'd rather give fifty dollars than have him get the money for them boots."

☞A VENDER of hoop skirts was recently extolling his wares in presence of a customer's husband. "No lady should be without one of these skirts," said the storekeeper. "Well, of course not," dryly responded the husband, who was something of a wag; "she should be within it."

☞Sick men taking drugs to escape death is often like a person under the influence of nightmare; he finds himself nearing the dreaded object by his very struggles to escape from it.

BRIEF OF ARGUMENT

MADE BY JOHN CESSNA

Before the Committee in the Contested Election Case from the County of Bedford.

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In this case it has been admitted by the parties in writing, in the nature of a stated case, that the main and only question to be settled in the determination of the controversy is the right of the county of Bedford to separate representation under the Constitution of Pennsylvania. It has been conceded by the Contestant that in case no such right existed, and in case the votes of Somerset county ought to be counted in the election of Representative from the county of Bedford, then the sitting member is duly elected, and entitled to his seat. It is also admitted by the sitting member that if the county of Bedford was entitled to such separate representation, and if the vote of the county of Somerset ought not to be reckoned in the election of such representative, then John Cessna, the Contestant, was duly elected, and is entitled to his seat.

This state of facts rendered it incumbent to determine whether the junction of the counties of Bedford and Somerset, in the formation of a Representative District under the apportionment bill of 1857, was or was not in conformity with the Constitution of Pennsylvania as it then existed. This question can never arise under the third Constitutional amendment of 1857, but as that amendment does not have effect (except as to Philadelphia) until 1864, the present question stands as if the amendment had never been adopted. Nor is it affected by the Constitutional amendments of 1838. The second and fourth sections of the first article of the Constitution, which rule this case, were not amended in 1838, and by the third division of the schedule then adopted, it was expressly declared that "the clauses, sections and articles of the said Constitution which remain unaltered shall continue to be construed and have effect as if the said Constitution had not been amended." Those second and fourth sections of the first article of the Constitution of 1790 read as follows, viz:

"Section II. The Representatives shall be chosen annually by the citizens of the city of Philadelphia, and of each county respectively, on the second Tuesday of October."

"Section II. Within three years after the first meeting of the General Assembly, and within every subsequent term of seven years, an enumeration of the taxable inhabitants shall be made in such manner as shall be directed by law. The number of Representatives shall, at the several periods of making such enumeration, be fixed by the Legislature, and apportioned among the city of Philadelphia and the several counties according to the number of taxable inhabitants in each, and shall never be less than sixty nor greater than one hundred. Each county shall have at least one Representative, but no county hereafter erected shall be entitled to a separate Representative until a sufficient number of taxable inhabitants shall be contained within it to entitle them to one Representative, agreeably to the ratio which shall then be established."

The general meaning of these sections, when they are carefully considered, cannot be doubtful. Popular representation shall be by communities, by defined municipal divisions of the State—by "the city of Philadelphia and each county respectively. Language could not be more express and plain than that here used to establish separate and distinct representation in the House for the city and each county in the State. The fourth section secures in express terms equality of representation in proportion to taxables, "in each, among the city and the the several counties," by directing the proper enumeration of taxables, and apportionments for such purpose "within three years after the first meeting of the General Assembly, and within every subsequent term of seven years." So far these sections declare the same principles of representation that are contained in the Constitution of 1776. That Constitution provided that the "city of Philadelphia and each county in this Commonwealth respectively, shall, on the first Tuesday of November, in the present year, and on the second Tuesday of October annually for the next two succeeding years, to wit: the years 1777 and 1778, choose six persons to represent them in General Assembly. But as representation in proportion to the number of taxable inhabitants is the only principle which can at all times secure liberty and make the voice of a majority of the people the law of the land, therefore the General Assembly shall cause complete lists of the taxable inhabitants in the city and each county in the Commonwealth respectively to be taken and returned to them on or before the last meeting of the Assembly in the year 1778, who shall appoint a representation to each, in proportion to the number of taxables in such returns; which representation shall continue for the next seven years afterwards, at the end of which a new return of the taxable inhabitants shall be made, and a representation agreeably thereto appointed by the said Assembly, and so on septennially forever."

The Constitutions of 1776 and 1790 therefore agree in declaring the separate representation of the city of Philadelphia, and of each county "according to the number of taxable inhabitants in each." Two great principles of representation appear to be recognized by all the Constitutions of Pennsylvania, at different period. These are the principles of equality of representation and community of interest.—They have always been respected by the several Legislatures of the State in the enactment of apportionment laws. The annunciation of these principles of local representation and taxable proportion in the Constitution of 1790, is followed by a clause of *guaranty* and a subsequent *limitation*. These are closely connected—in one continuous sentence—and must be considered together. The guaranty is that "*each county shall have at least one representative.*" This manifestly has relation to the principle of proportionate taxable equality before mentioned, and is in limitation of it, while it is confirmatory of the other principle of separate county representation. In other words, separate representation is secured to each county without regard to the number of taxables contained within it. The guaranty, in short, provides for cases of conflict between the two principles before announced, and preserves county representation against the assaults of the doctrine of taxable equality. But because the guaranty taken generally and without qualification might go too far; unduly trench upon equality, and render apportionments grossly unequal, a limitation of it was subjoined, in these words:—"*But* no county hereafter erected shall be entitled to a separate representation *until* a sufficient number of taxable inhabitants shall be contained within it to entitle them to one representative, agreeably to the ratio which shall then be established." It is important to notice here that this limitation of the guaranty does not impose a restriction upon *all* future counties. Those of them that contain a ratio when established are not affected by it, and its application is only temporary to those that attain to a ratio at any time subsequent to their erection. Those counties only are permanently excluded from the guaranty of separate representation that commence their existence and always continue in a state of taxable minority. There is, therefore, no foundation for the notion that the guaranty is confined to counties erected before 1790. It obviously includes all counties erected before or since that date, except those that are expressly excluded from it by the limitation just explained. And it is equally clear that a disqualified county *upon* attaining a ratio of taxables is freed forever from the limitation, and cannot again be subjected to it. Its right of "separate representation" is only deferred "*until*" it attains to a ratio, and there is no provision to re-impose a restriction upon it in any after contingency.

Confirmatory of the foregoing exposition of the Constitution are the facts, that counties had separate representation before the Revolution as well as under the Constitution of 1776; that such representation existed when the Convention of 1790 was in session, and that a motion made in that Convention to confine separate representation to established counties during their continuance was rejected. And that Convention, in the sixth section of its schedule, provided:—"That until the first enumeration shall be made as directed in the fourth section of the first article of the Constitution established by this Convention, the city of Philadelphia, and the several counties shall be respectively entitled to elect the same number of Representatives as is now prescribed by law." The last century was concluded so far as this subject is concerned, by the Apportionment Act of 27th April, 1794, in which every county of the State had separate representation assigned it. This brings us to a proper point for an intelligent judgment upon the question with which we began, viz: Was the union of Bedford with Somerset in 1857, to form a representative district, in conformity with the Constitution? Bedford county was erected in 1771, and Somerset in 1795. The former is therefore an old county, and the latter a junior one with reference to the date of the Constitution. No one can doubt the right of Bedford to separate representation if any county whatever can claim it, and a similar right in Somerset is rendered equally certain by an examination of her history. She is a junior county, but as she contained when erected, as well as subsequently, a sufficient number of taxables to entitle her to one representative, she always stood and now stands free from the restriction upon new counties, contained in the Constitution, and entitled equally with old ones to the guaranty of separate representation. As early as 1797 the Legislature of Pennsylvania enacted a supplement to the Apportionment Law of 1794, by which the county of Somerset, which had been erected in 1795, was allowed a separate representation. This separate representation was again allowed by the Apportionment Law of 1801. By the Apportionment Laws of 1808, 1815, 1822, 1829, and 1836, the counties of Somerset and Cambria were allowed two members, the latter county having been erected mostly from the territory of the former. By the laws of 1843, and 1850, the county of Somerset was again allowed a separate representation. The conclusion is inevitable that the union of Bedford and Somerset, to form a Representative District in the Apportionment Act of 1857, was in plain violation of the Constitutional rights of both. In order to have a full view of the subject of representation and apportionment, (tho' not required for a decision of the case in hand,) this question remains to be considered.

What shall be done with new counties never possessing a ratio? No construction is allowable which would disfranchise them from all representation in the House, and as separate representation is expressly denied them they must be formed into districts or attached to guarantee counties old or new. This seems to be the only alternative and doubtless is often one of difficulty. On the one hand the guarantee of separate representation appears to protect the counties covered by it from any connection with the disqualified ones; on the other hand it is often impossible to form the latter into districts with any regard to contiguity or relative taxable population. Whatever may be the just construction of the Constitution on this subject legislative practice has been guided by a doctrine of necessity, and has varied according to the cases which arose. Where districts could be formed of new counties that respectively had no ratio it was usually done. And where this was impossible or inconvenient in a high degree and violative of equal rights, they were attached to counties not of their own class—most frequently to those from which they had been erected. But this practice is founded upon necessity more or less absolute, is limited by that principle, and cannot be extended beyond it. But in the present case no disqualified county is proposed to be dealt with, and no necessity is shown for the junction of counties. The community of interest is clearly violated—the guarantee of separate representation denied, and the equality of representation in no way promoted. In 1857 the county of Bedford contained 5,197 taxable inhabitants, and the county of Somerset contained 5,254—as separate Representative Districts they would have been more nearly equal in point of numbers than any districts formed by the apportionment act of that year. There is therefore in this union of these two counties only an open and flagrant denial of right.

These general conclusions have been reached from the plain language of the Constitution itself. They seem to be sustained by its letter and its spirit. It is manifest that the Constitution was so understood by its framers. It is evident that any change that might be made in the boundaries of a county, or in the extent of its territory, could in no way affect its individuality or indentity. The Legislature might take away a portion of the territory of a county, or a part of its population, but could not destroy its corporate rights and privileges, nor take away the constitutional rights of its citizens. In 1790, the whole territory of Pennsylvania was embraced in twenty-one counties. The Convention contemplated the erection of new counties, as appears from the latter clause of the fourth section of the first article of the Constitution. Such new counties could only be formed from the territory of the old ones. An effort was made in the Convention to confine the right of separate representation to each county "during its continuance." By the rejection of this proposition, the Convention determined that this right of separate representation should remain with the county, without regard to any change that might be made in the extent of its territory, or number of its inhabitants. *See* Conventions of Pennsylvania, compiled by Francis R. Shunk, in 1825, commencing on page 317.

These conclusions are further strengthened by the action of the Convention of 1837 and 1838 on the subject of representation. In this body a protracted and vigorous effort was made to extend this right of separate representation to all the counties then formed in the Commonwealth, without regard to ratio, and being fifty-three in number. After the failure of this effort, another, of equal vigor and determination, was made to take away from the old counties the right of separate representation, and to make equality of taxables the sole basis of representation. This effort was also unsuccessful, and the Convention finally, by a large majority, adhered to the Constitution of 1790 upon this subject. During the discussion of these propositions, lasting several weeks, every member participating in the debates (including such eminent jurists and constitutional lawyers as Wm. M. Meredith, John Sergeant, Thomas S. Bell, Geo. W. Woodward, James Madison Porter, George Chambers, Thaddeus Stevens, Charles J. Ingersoll, Walter Forward, and many others) distinctly avowed that under the Constitution of 1790 "each county was entitled to not less than one Representative, and that the new counties should be represented *as soon* as they had the required ratio of taxable inhabitants," and that this right could not be interfered with in any other manner than by constitutional amendment.

Indeed, the idea of depriving one of the original counties of its right to seperate representation does not seem to have occurred to the Legislature until the unscrupulous system known as "gerrymandering" was introduced. With a single exception, (in 1836,) the Legislature, since 1790, in enacting apportionment laws, has uniformly observed the constitutional guaranty, in strict accordance with the views adopted in this Argument, until 1850 and 1857. In the last two appointment acts, two or three departures were made from these general principles. The first of these caused for a time the withdrawal of nearly a quorum of members from the House of Representatives, and threatened seriously the utter disruption of that body. A few of the provisions of the second were evidently adopted without proper consideration and reflection. The only other exception, that of 1836, was the junction of the counties of Mifflin, Union and Juniata in one Representative district. This was denounced by Judge Porter in the Reform Convention (see Debates, Vol. XII., p. 181) as a violation of the Constitution, and the error was corrected at the next apportionment, and a separate representation has ever since been given to the county of Mifflin, although greatly below the ratio.

In order to verify the statements herein made, the Contestant has prepared a number of statistical tables, which are submitted, and marked Papers "A," "B," and "C," the first being a list of the several apportionments of this Commonwealth for members of the House of Representatives—the second a list of the taxable inhabitants upon which said apportionments were based, and the third a list of the counties of this Commonwealth, with the respective dates of their erection, and the time when they severally attained a Representative ratio.

In addition to these evidences we have the opinion and judgement of the Legislature of 1856, and also of that of 1857, distinctly acknowledging the right of separate representation as claimed in this argument by the adoption of the third amendment, which goes into effect A. D. 1864, and by which thereafter these rights are either modified or taken away. Had these rights not been established by the Constitution there would have been no necessity for this amendment.

The Legislature of 1857, acknowledged the doctrine of this argument with regard to old counties, by allowing the counties of Mifflin and Huntingdon separate representation although below the ratio. The Legislature of 1843 acknowledged the same principle in the case of Mifflin county, and that of 1850 in the cases of Mifflin and Northumberland. The Legislature of 1857 acknowledged the other doctrine of this argument, viz: that a county erected since 1790, having once attained a ratio of representation is ever entitled to immunity from the restrictions imposed by the Constitution by allowing to the counties of Adams and Greene a separate representation after they had both fallen below the ratio.

This same doctrine was also recognized by the Legislatures of 1836, 1843 and 1850, in the case of Perry county. Any deviation from this doctrine must lead to constant and embarrassing changes to and from separate legislative districts, as the several counties might happen at the times of enumeration to be above or below the ratio. The second and fourth sections of the first article of the Constitution guarantee to each county at least one representative, to be chosen by the citizens thereof. To admit the constitutionality of the district under consideration would be to concede that both members might be residents of the county of Somerset, and might be elected by the citizens thereof, contrary to the choice of a majority of the citizens of the county of Bedford. This would seem to be not only a denial of the right of representation to the people of Bedford county, but a further imposition upon them of a Representative chosen against their wishes, and by voters residing beyond their boundaries.

The Contestant in this case has never published, nor authorized the publication of one word on the subject of this controversy. He preferred to leave the question with the tribunal appointed by law for its decision. The recent circulation in large numbers of a paper entitled "Synopsis of the argument delivered by the Hon. Walter Forward," (who by the way is long since deceased,) "counsel for the sitting member in the contested election case of Cessna against Householder," has rendered it necessary that the position taken by the citizens of Bedford county should also go forth to the public.

A reply to this printed argument is unnecessary, inasmuch as it is based throughout upon a misapprehension of the position of the Contestant. The Contestant does not deny the constitutionality of annexing a county which has *never* attained the Constitutional right of separate representation to one which has, but merely alleges that after this right has been acquired it can never be lost. The very table published in the "Synopsis of the argument of Hon. Walter Forward," establishes the correctness of the position contended for in this argument. It is contended that in no case prior to 1850, except the single one before mentioned, (Mifflin in 1836) was there a departure from the interpretation of the Constitution herein maintianed. His own table proves that the counties of Carbon, Clarion, Fulton, Lawrence, Venango, Forrest, Wayne and Potter, never had acquired a representative ratio. An examination of the several apportionment bills and lists of taxables, will establish the fact that at no time, with the exceptions before stated, was any county which had ever acquired a ratio, attached to any other such county in the election of Representatives; but those that have never acquired such ratio have been and are temporarily attached to those that have.

The idea that the provision in regard to new counties is merely directory, is based upon the mistaken notion that new counties, having acquired a ratio, are not embraced within the first clause of the IV section of article 1, Const. When it is remembered that in the Convention of 1790, the motion to confine the right of separate representation to counties then organized was rejected, and that all counties without regard to the date of their erection; subject only to the restriction "*until*" they should reach the ratio, were guaranteed the right of separate representation, the interpretation claimed by the sitting member is clearly inadmissible. The act of 1795 erecting the county of Somerset, directed the Commissioners appointed by said act to take an enumeration of the taxable inhabitants, and transmit the same to the Legislature forthwith; and in 1797, in pursuance of their return, by a special act, the Legislature gave to the county of Somerset a separate representation.

Mr. Forward's first legal position, that the action of the Legislature in enacting the apportionment act of 1857 cannot be inquired into or corrected, is in direct conflict with the legal maxim "that one Legislature cannot bind a subsequent one," and also with the constitutional provision that "each House shall be the judges of the qualification of its own members," as well as that other well established doctrine that "the *Constitution* is the fundamental and paramount law of the land."

The Constitution says that each county shall be entitled to one Representative to be elected by the citizens thereof. Bedford was at that time one of the counties of this Commonwealth, and is therefore entitled to her separate representation. But, says Mr. Forward, the word county means territorial extent, and not municipal authority. Conceding this to be true, it would have been strictly constitutional for the Legislature of 1857 to have allowed but twenty-one representative districts for the entire Commonwealth, and to have limited those districts by lines of the original counties as they existed in 1790.

The folly of this position is clearly shown by the action of the convention of 1790 in refusing to confiine this right of separate representation to the counties as then organized. If anything more were needed by way of illustration it could be had in the exhibition of a district embracing all the territory included in the county of Northumberland in 1790, or in either of the counties of Cumberland, Westmoreland, Luzerne, or Allegheny at the same time. The charge against the Contestant relative to his eminnent lawyers and judges is gratuitous and the insinuation that adverse opinions have been received is a fiction, a dream, or something worse.

That the disregard of an unconstitutional act of the Legislature will be met by a greater "howl of indignation," than a wilful submission by a free people to the violation of their Constitution the Contestant is not prepared to believe, because while acts of legislation have always been regarded as temporary and changeable the safety of the citizens has reposed upon the idea that the fundamental law of his State was permanent and certain, and could only be altered by the forms therein prescribed.

The Contestant comes here backed by more than one thousand majority of the voters of his county, submits his claim for decision to the tribunal fixed by the Constitution of the State, confident that that tribunal will be guided by the Constitution they have sworn to support, the practice of the Commonwealth in time past, and a proper regard for the great doctrines of a community of interest and equality of representation going hand in hand to preserve the rights of the citizen.

A FORTUNATE KISS.

The following pretty little story is narrated by Frederika Bremer, who vouches for its truthfulness:

In the University of Upsula, in Sweden, lived a young student, a noble youth, with a great love for studies, but without the means of pursuing them. He was poor, and without connections. Still he studied, living in great poverty, and keeping a cheerful heart, and trying to look at the future, which looked so grimly at him. His good humor and excellent qualities made him beloved by his young comrades. One day he was standing with some of them in the great square of Upsula, prattling away an hour of leisure, when the attention of the young men became arrested by a young and elegant lady, who, at the side of an elderly one, was slowly walking over the place. It was the only daughter of the Governor of Upsula, living in the city, and the lady with her was the governess. She was generally known for her goodness and gentleness of character, and looked upon with admiration by all the students. As the young men stood gazing at her, as she passed on, like a graceful vision, one of them suddenly exclaimed.

"Well, it would be worth something to have a kiss from such a mouth!"

The poor student, the hero of our story, who looked on that pure, angelic face, exclaimed, as if by inspiration—

"Well, I think I could have it!"

"What!" cried his friends in a chorus, "are you crazy? Do you know her?"

"Not at all!" he answered; but I think she would kiss me now if I asked her."

"What! in this place—before all oureyes!"

"Yes, in this place, before your eyes,"

"Freely?"

"Freely."

"Well, if she will give you a kiss in that manner, I will give you a thousand dollars!" exclaimed one of the party.

"And I,"—"and I," exclaimed three or four others; for it so happened that several rich young men were in the group, and the bets ran high on so improbable an event. The challenge was made and received in less time than we take to tell it.

Our hero (my author tells not whether he was handsome or plain; I have my peculiar ideas for believing that he was rather plain, but singularly good looking at the same time,) immediately walked off to the young lady, and said:

"Mine fraulein, my fortune is now in your hands."

She looked at him in astonishment, but arrested her steps. He proceeded to state his name and condition, his aspirations, and related, simply and truly, what had just now passed between him and his companions.

The young lady listened attentively, and, at his ceasing to speak, she said blushingly, but with great sweetness:

"If by so little a thing so much good can be effected, it would be foolish for me to refuse your request;" and, publicly in the open square, she kissed him.

Next day the student was sent for by the Governor. He wanted to see the man who had dared to seek a kiss from his daughter in that way, and whom she had consented to kiss so. He received him with a scrutinizing bow, but, after an hour's conversation, was so pleased with him that he ordered him to dine at his table during his studies at Upsula.

Our young friend pursued his studies in a manner which soon made him regarded as the most promising student in the University.

Three years were now past since the day of the first kiss, when the young man was allowed to give a second one to the daughter of the Governor, as his intended bride.

He became later, one of the greatest scholars in Sweden, and as much respected for his acquirements as for his character. His works will endure while time lasts, among the works of science: and from this happy union sprang a family well known in Sweden even at the present time, and whose wealth and high positions in society are regarded as trifles in comparison with its wealth of goodness and love.

EIGHT CHILDREN AT A BIRTH.—On the 2d of August, Mrs. Timothy Bradlee, of Trumbull county, Ohio, gave birth to eight children—three boys and five girls. They are all living, and are healthy, but quite small. Mr. Bradlee's family is increasing fast. He was married six years ago to Eunice Mowery, who weighed 273 pounds on the day of her marriage. She has given birth to two pairs of twins; and now eight more, making twelve children in six years. It seems strange, but nevertheless is true, Mrs. Bradlee was a twin of three, her mother and father both being twins, and her grandmother the mother of five pairs of twins. Mrs. Bradlee has named her boys after noted and distinguished men; one after the Hon. J. R. Giddings, who has given her a splendid gold medal; one after the Rev. Hon. Elijah Champlain, who gave her a deed of fifty acres of land, and the other after James Johnson, who gave her a cow.