

Gazette of the United States.

PUBLISHED WEDNESDAYS AND SATURDAYS BY JOHN FENNO, No. 69, HIGH-STREET, BETWEEN SECOND AND THIRD STREETS, PHILADELPHIA.

[No. 72, of Vol. III.]

WEDNESDAY, JANUARY 4, 1792.

[Whole No. 280.]



CONGRESS.

PHILADELPHIA.

HOUSE OF REPRESENTATIVES,

MONDAY, DECEMBER 19.

DEBATE ON THE REPRESENTATION BILL.

[The Senate had amended the bill by increasing the ratio from 30,000, to 33,000; the House had disagreed to this amendment; the Senate voted to adhere. It was moved in the House this day, that they should recede from their disagreement.]

M. R. AMES said, the amendment proposed by the Senate, though a single proposition, involves two questions, which it will be proper, on this occasion, to discuss distinctly.

Is the bill wrong, as the House passed it? and is the proposed amendment of the Senate fit and proper?

The original bill gives the ratio of one member to 30,000 persons, and proceeds to state the number of Representatives which the respective States shall have in the next Congress. If in this distribution of members, it shall appear that we have not pursued the constitution, the bill is a bad one, and it is our duty to concur with the Senate, at least in striking out the exceptionable part.

The constitution directs that Representatives shall be apportioned among the several States according to their respective numbers. The whole number of Representatives being first fixed, they shall be apportioned to any State according to its census. The rule of three will shew what part of the representation any State shall have. The wisdom and caution of the constitution have left very little to Congress in this affair. Though Congress is to apportion the members, the rule of apportionment is fixed; the number of Representatives will be 112. There are to be apportioned to each State according to its numbers. What part of the 112 members will Virginia have according to its people? The answer is easily found. Virginia, having 630,000 persons, (which is her federal number, after deducting two fifths for the slaves according to the constitution) is entitled to 19 members? The bill gives her 21. Is that right? Who will say that the words, or meaning of the constitution are pursued? Are the Representatives, then, apportioned or disproportioned?

We may believe the result of figures. The sum is short and easy to reckon. Let us not then persist in a measure which palpably violates the constitution. The argument might stop here—but, to shew how other States will be wrong'd by the bill, it may be well to proceed. If the constitution had been silent, as we are men, common sense would have told us, and as we are freemen, we should have learned from our habits of acting—that an unequal representation is wrong. But the constitution is not silent, and yet the bill gives Virginia 21 members.

The States of Vermont, New-Hampshire, Rhode-Island, Connecticut, New-Jersey and Delaware, have 766,428 persons, and they will have by the bill only 21 members. With upwards of one hundred and thirty thousand persons more than Virginia, they will have no more members than that single State.

Thus Virginia has by the bill two members more than her due number compared with the whole union, and not less than four as it respects the six States before mentioned.

From this view of the operation of the bill, I draw this conclusion, which I presume is anticipated, that the proposed distribution of representatives is neither just and equal in itself, nor warranted by the constitution.

If further evidence of this injustice should be demanded, it can be furnished. Representatives and direct taxes are to be apportioned by the same rule—and there is a manifest propriety in the rule—in the distribution of benefits and burdens, the constitution has wisely excluded this means and temptation to partiality.

It is an additional security to our property that those who hold the power are made to feel it when they exercise it; and that exactly in the degree that they hold it; taxes are to be apportioned according to the numbers in the respective States. It would not be allowed by the constitution to use one rule for apportioning taxes and another for the members. If two things are to be compared with a third and made equal to it, it follows that they must be equal to each other. Let us suppose this bill to have become a law; and for the more plainly shewing its tendency, let us suppose Virginia to have 630,000 persons, her true number, and 21 members, and the 13 States to have, as Delaware actually has, 59,000 persons each, and one member to each State—in the whole 1,397,000 persons. Let us suppose a tax to be laid equal to a dollar for each person in the 14 States, that is, a tax of 1,397,000 dollars. Virginia, in point of justice, and by the constitution, should pay only according to her numbers, or 630,000 dollars; yet she would pay 21 parts in 34, or 1,007,000 dollars, being 377,000 more than her proportion. Whether with 21 members in 34 this wrong would be imposed or submitted to, is not my question. This may be called an extreme case; yet in fact Delaware, New-Jersey, Connecticut, New-Hampshire and Vermont, on a tax equal to a dollar a head, would avoid more than 150,000 dollars of their just proportion; the justice and the constitutionality of such an apportionment of taxes are upon an equal footing.

Extraordinary as this statement may seem, it is not easy to shew an authority in Congress to apportion a tax on any other principle. It would not do to deprive a State of its proportion of members, and yet to saddle it with taxes, according to numbers: The departure from the rule of the constitution in the case of representatives would be rendered both more flagrant and more galling by an adherence to it in the imposition of taxes. Such a comment upon this law would silence its advocates, such an execution of it would disfranchise the sufferers.

But this is not the country, and I trust this is not the government to do a violence of this sort—therefore no tax would be laid—and yet, unless a new census should be taken, or a new law, at least, for apportioning representatives should be passed, Congress might be found destitute of one of its constitutional faculties.

The gentlemen who vote for this law have been importuned to defend it; anxious as we are under the fear of seeing the consti-

tion and our primary civil rights violated, we have listened to hear reasons which would shew some respect for the one and the other. It is needless to decide whether men's passions will be foothed or their understandings convinced by an argument of this kind—that as the small States are equally with the large ones represented in the Senate, the advantage which the bill will secure to Virginia in the representative branch is fit and proper, and that it was so intended by the Constitution. Is one inequality if it really existed to be balanced by another? Because the constitution has secured to each State an equal vote in the Senate, are we at liberty to make a new constitution as often as we make a representation law, to counterpoise it; and under a form of government contrived to secure equal liberty, and to fix right above opinion are the measure and the nature of this retribution to the great States to depend on our arbitrary discretion? This answer is perhaps more serious than the argument. Let it be refused by itself.

Because the great States suffer wrong in the constitutional compact, will this bill do them right? Is Massachusetts or North-Carolina benefited by giving Virginia two extra members? By this bill the great States are injured as well as the small ones. The small ones are injured as it respects each other. Delaware will have one member, Rhode-Island two—yet the latter has only nine thousand more people than the former. But the doctrine tears up the foundation of compact on which we stand, and under the appearance of vindicating the bill from a charge of violating the constitution, establishes a claim to violate it at pleasure.

It has been said that the representatives are to be apportioned among the several States—that Congress is not to regard the number of the whole nation; it is not easy to see how the bill can be defended on any principle of distribution among the States. The representatives are to be apportioned according to numbers. The number of members allotted to a State must correspond either with the number of persons in any other State, or the number in all the States; compare Virginia with either of the six States before-mentioned, or with the whole six; it appears that 130,000 persons in the latter will go unrepresented; compare Virginia with the nation, she has two members more than her proportion. Why then is it so zealously contended, that the apportionment is not to be made upon the entire number of the union, but upon the census of each State? The bill is as naked of defence on the one comparison as the other. It departs as widely from the principles of its advocates as from those of its adversaries.

It is indeed intimated that you are to take the ratio of 30,000, and to apply it to each State, without regarding its operation. To justify this interpretation, the text of the constitution ought to read, each State shall have as many members as the ratio of 30,000 applied to the number of persons will give it; But that instrument is very differently expressed, and much better; representatives and direct taxes are to be apportioned among the several States according to their respective numbers—will any gentleman who votes for the bill say that it is such an apportionment? Will it accord with the Constitution to take, instead of such an apportionment, an arbitrary ratio, which, instead of apportioning, disproportions representatives to numbers? The ratio mentioned in the Constitution, and in the proposed amendment to it, evidently relates to the whole number of representatives which according to it may be had from the whole nation, and not from the number of people in a State; any other sense besides being unnatural, would disagree with the clause which directs how representatives shall be apportioned.

By the ratio of one to 30,000 may be known the greatest number of representatives which shall form this branch of the government. Having determined the number it remains to apportion the members according to the census in the respective States. Nothing is more natural or corresponds more perfectly with the constitution than to find first the whole number of representatives, and then to apportion them as the constitution directs. But this method would not suit the present emergency; for that would give Virginia 19 members and no more. Instead of beginning with the whole number, the bill says, let us begin at the other end; give Virginia her 21 first, and, if the number should hold out, give to all the States at that rate. It seems on trial the number will not hold out to apportion in that manner, still, however, says the bill, give Virginia her 21.

Let the constitution become what the bill makes it, a dead letter. Still however, men, and freemen, will remain, who will preserve the departed spirit; for before the constitution was formed our rights were equal; and can it be believed that compact has made them less; Men equal in rights assented to a government which preserves them equal in power; 30,000 citizens residing where they may, must possess civil rights and powers equal to 30,000 in any other part of the union; yet though a compact which ought to be inviolable, has ordained that representation, that is to say, power, shall be apportioned according to numbers, this bill contradicting the language of nature and compact, directs, that 30,000 in Virginia shall have as much power as near 60,000 in Delaware and several other States.

It would ill suit the seriousness of my present emotions to say how little the supposed expediency of a numerous assembly and many other favorite topics have to do with the debate; Constitutional questions are so frequent they have almost lost their power to impress us. But this touches the first organization of the body politic; it goes to fluster liberty in her cradle—it establishes the power of a part over the whole—it is a disfranchisement of some of the States. If the rights of Virginia were invaded, I trust I should be equally zealous to maintain them. For the common right is the common security; but this bill tears the title deed in pieces.

Having compared the bill with the constitution, and seen the result of the comparison, it remains to enquire what amendment will be proper and constitutional. In this part of the enquiry, I will not pretend to say that I have arrived at equal certainty. I have no doubt that the bill is bad, but I am not equally satisfied of the best mode of amending it.

To determine what is right, some principle must be ascertained. That first principle is equality; it is another name for justice:—That which is the right of the people, therefore, is the duty of the government. But as it is not practicable to apportion representatives exactly among the several States according to their numbers, it is our duty to approach as nearly to that equality as may be. If an apportionment is proposed, and it can be shewn that a more equal one can be made, it becomes our duty so to make it. For if we have an arbitrary discretion to reject the most equal apportionment, and to adopt a less equal, what is to restrain us from choosing the least equal of all, that is to say, having no apportionment at all. If this principle is not to govern us, then we are to act without any rule at all, and the constitution was made in vain. We cannot have more representatives than one to 30,000—but in apportioning them, let us follow the constitution, and do it according to numbers—and when we stop, as we must, short of a perfect equality,

it will be the constitution that restrains us. In doing this, we shall assume no arbitrary control over the equal and sacred rights of the people. We shall have done all that we can to give them energy. It has appeared on discussion that the rule of 30,000, proposed by the bill, is so far from being the most equal, that no more capricious and unjust disproportionment of representatives has yet been suggested. The ratio of 33,000, tho' not free from exception is less unequal, and leaves less unrepresented fractions.

The amendment (Mr. Ben'ns) which was proposed to the amendment of the Senate, would increase the representatives to 119. Two objections have been made to this increase—it has been called a representation of fractions—and a number of changes were rung upon the idea. It has also been said to be as disproportionate a representation as that given by the bill.

As to the first objection, it is a mere play upon the word fractions—for if the effect be as it will appear to be, to produce a more equal representation, it may be retorted that the bill gives a representation by fractions—whereas the other mode makes 119 whole parts, nearly equal to each other, and gives a member to each.

This brings me to the next objection, and which has been strenuously urged against having the amendment of 119 members: that it will be as unequal as the bill.—Then I shall think as unfavorably of it—we should not hesitate to renounce them both.

But figures will shew with certainty whether it is true that the amendment which proposes to add one member to seven of the States will operate as un-equally as the bill. To refute this I have made a table in which are seen the effects of the two plans which are to be compared.

Mr. Ames then read the following statement:

RATIO OF REPRESENTATION.

The amendment proposed in the House to the amendment of the Senate, will make an addition of one member to each of the following seven States.

In the third column of figures is the ratio according to which each State will be represented in case the bill should pass as it stood when it was sent to the Senate.

Members.	Numbers lost on each member by the bill.	Ratio of the House.	Loss numbers or fractions.	Ratio by the amendment which adds 7 members.		
5	5455	N. Hampshire	35455	21820	28365	1635
16	1919	Massachusetts	31919	25327	29924	291
8	4223	Connecticut	34223	26841	29805	195
3	12766	Vermont	42766	25533	28511	1489
6	5911	New-Jersey	35911	29559	29826	174
12	2138	N. Carolina	32138	23522	29460	540
2	25539	Delaware	55539		27769	2231

53 according to the amendment. The following States to which the rejected amendment makes no addition, stand thus:

Members.	States	Ratio of the House.	Total loss by the Ratio.
11	New-York	30144	1584
14	Pennsylvania	30919	12866
9	Maryland	30946	8514
21	Virginia	30026	546

Members.	States	Ratio of the House.	Total loss by the Ratio.
55	Kentucky	34352	8704
2	Georgia	35421	10842
2	Rhode-Island	34223	8447

He then remarked, that if the ratio of 30,000 deserved so much respect as gentlemen had declared was due to it, because the amendment of the constitution has adopted it, they cannot forbear to say that the bill in every instance, except four States, departs from that ratio; whereas the plan he was comparing with the bill has made it the common measure and applied it with less variation than perhaps any other scheme will permit.

It appears from the foregoing statement, that the ratio of thirty thousand is applied with more equality, in pursuance of the amendment, than by the bill—For 59 members will be chosen by six of the seven States to which one member is proposed to be added, and the ratio of 30,000 will be nearly observed.

The short numbers, in the case of 5 members, will be 1635—of three members, 1489—of twelve, 540.

The deficiency of numbers for choosing 16, will be less than 300, and for 14, less than 200.

The deficiency for the choice of the two Delaware members, will be greater—but that will be only 2231.

Add to this, 55 members will be chosen by New-York, Pennsylvania, Maryland and Virginia, at the rate of one to 30,000.

So that 107 members will in effect be chosen by the ratio of one to 30,000.

By the bill, some States, especially the seven to which additions are proposed, will lose members. In the plan of the amendment, they will gain—by comparing their loss, in one case, with the gain in the other, the degree of equality can be exactly computed, viz.

Members.	Loss on each member.	Total loss.	Gain in each member.	Total gain.	
5	New-Hampshire	5455	21820	1635	8175
16	Massachusetts	1919	25327	291	4673
8	Connecticut	4223	26841	195	1560
3	Vermont	12766	25533	1489	4467
6	New-Jersey	5911	29559	174	1044
12	North-Carolina	2138	23522	540	6480
2	Delaware	25539	25539	2231	4462
			178171		30851

Difference of numbers in favor of the amendment, 147310

He said that if by this plan the seven States to which a member was added were gainers, that is to say, would be allowed members for a less number than 30,000, the gain was very little. In fact, the States would be represented very nearly according to the same scale; the bill on the contrary makes the scale, or ratio, vary from 55,000 to 30,000.

But if the advantage to the seven States, or the number less than 30,000 for one member is compared with the loss, or inequality, sustained by the bill, it is found to be 30,861 gain, by adding seven members, to 178,171 loss, by the unrepresented fractions—as the bill stands.