

# The Raleigh Minerva.

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## Political.

### FOR THE RALEIGH MINERVA. ON A CONVENTION.

The subject has lately excited the attention of the citizens of this state, and its importance requires investigation. There are periods in our constitutions, like that of the animals, in which amendments are to be made. Political economy demands the attention of the statesman, upon the occurrence of certain events, in like manner as the individual from year to year. Since 1776, when our State Convention was formed by our ancestors, many alterations have taken place in the face of our state, in the manners, population and wealth of the people. A revolution was then commenced in our political institutions, and regulations were adopted in which time and experience have pointed out the propriety of amendments. Some of these regulations were novel in 1776, but experience, the oracle of wisdom, may now safely point out the means of improvement. It may be confidently said that if our ancestors, who forming our State Constitution, could have foreseen the abuses arising from several parts of that instrument, they would either not have adopted such, or have provided more effectual guards and checks to secure the interests of the community.

For instance, what man at that time, could have predicted such an abuse as now exists in the appointment of justices of the peace? Who could have supposed that the administration of justice in and out of Court would have been so perverted by ignorance, and corrupted by such unbecoming materials? It is true there are some persons, who will condescend to take upon themselves this office for the benefit of their neighbors and country, who are worthy of the appointment; but a great part of these judicial officers are a reproach upon the administration of justice. It is a well known fact, that in many of our counties, an individual of more ambition than virtue, possessing the influence of half a dozen votes for some new candidate to the Legislature; procures for himself the appointment of a justice of the peace; and a judge in a Court of Record. Here, suits of great importance to many individuals are determined; an appeal cannot be had without taxation. Some of these suits are of great difficulty, and some open the door for infinite injustice and oppression; such as in cases concerning the estates of minors. How often do these justices bestow the appointment of a constable upon some unworthy favorite, and bestow upon them business is managed too often in a way, directed by private interest and corruption. In consequence of these evils a proposition has been made with some popular support for abolishing the County Courts. Every person must admit, who is conversant with these Courts, that many errors arise, from many of the justices possessing the most vulgar passions of the human breast. These Courts under a better selection of its officers, may be productive of much benefit.

The Legislature of our state, under its present organization, occasions an annual expense of about thirty thousand dollars. It remains only five or six weeks in session, and at the latter end thereof, legislation is pushed with extreme celerity. There is not time sufficient for that deliberation, so necessary for a large and important state. The evils arising from this cause are of a most serious magnitude. Laws for the advancement of education and the improvement of our roads and rivers are too often neglected. The fiscal affairs of the state receive not a proper attention. At the last session of the General Assembly a proposition was made by the trustees of the University of this state for a loan of money for the use of that institution; and security was offered of undoubted character to refund that money with legal interest whenever required. This proposition was rejected by a large majority. It was well known to the members of the Legislature that at the rise of that body there was in the public treasury about one hundred and ten thousand dollars. Which sum if at interest would produce to the state six thousand six hundred dollars per annum. Would any individual member of that body if possessed of that sum, permit it to remain in that manner—not to produce at the end of the next year one cent for the want of active employment? Is this economy? If the number of members in our General Assembly was reduced, the fiscal affairs and legislation of the state would receive more attention. This opinion is given from a supposition that the selection of members would more carefully be made, if the house of commons should be composed of one member from each county, and one member from each of four or five of the most commercial towns in the state, and the senate of one member from two or three counties.

Some of our western brethren have urged that the principle of representation ought to be

founded on the white population of the state. This is a mistaken notion. Our fore-fathers contended that representation and taxation should accord with each other, which was denied by the then mother country; upon which principle the independence of these states was effected. Our brethren in the eastern section of this state may contend with equal propriety that our representation should be formed from wealth. Separate the one principle, from the other, and they are equally erroneous. Compound the two principles and we have a correct proposition. The security of persons and that of property are equally the care of legislation. In viewing the map of our state we find only a small difference in the size of our counties; and as many small counties in the western, as in the eastern section of our state. The time will come when the counties in the east will contain a population as dense as those of the west. When the swamp lands are reclaimed, there will be found of superior fertility. No state on the Atlantic contains counties divided so equally in point of territory as North-Carolina. Hence, I presume that our representation should be made from counties, and from no other data whatever. These reasons will operate in favor of the town representation. Craven county for instance pays a proportionate amount of the public taxes; the town of Newbern it is supposed pays as much of these taxes as the county of Craven in which this town is situated. Newbern has an internal police making many regulations, as well for the government, as the commerce of the town. A member from this corporation should be admitted into the councils of the state. It would appear admissible that the towns of Edenton, Washington, Newbern, Wilmington and Fayetteville should each be entitled to one member. The University of this state may be entitled to one member, whose duty it would be in a particular manner to attend to the advancement of education in the common weal—an important object of legislation. To concentrate the various operations of society into the body legislative, is predicated upon republican or federal principles. The maintenance of these principles is to perpetuate our union and happiness.

The frequency of elections, to many intelligent minds appears to produce evils. If they were every two years, and not annually, the members elect would in a small and useful degree be independent of the great mass of the people, whose good opinion is necessary to their re-election. If the elections were annual they might be tempted to act in their legislative capacity in a manner, which they did not really approve; but which they knew would be more pleasing to their constituents. These, being numerous and sometimes wrongly informed, are subject to improper influence; looking more to their immediate, than to their remote and permanent interests. The elections for senators may take place once in every four or six years. This would place them in a situation more independent, to check the passions of the other house. On this basis the senate of all countries is founded. Men, in this station, are in legal contemplation possessed of more age, information and experience, and consequently should be more permanent.

The Executive to be selected from the suffrages of the people, would place that officer in a situation independent of the Legislature. The election of a chief Magistrate to take place once in every four years, and after the expiration of the term of one election; the individual to be ineligible of ever holding that office thereafter. The Executive and Senate should make all appointments whatever. This system would assimilate to that of the general government, whose constitution is an epitome of human wisdom. The selection of officers by the governor and senate thus organized would no doubt be from the best materials. A system certainly to be preferred to the present; in which, by joint ballot, some have been appointed to places of trust and profit, who were not approved by the intelligence of the Country.

In the election of members of a Convention, great care is necessary for such a selection. One member from each County would answer the purposes of economy and prudence. To which may be added one member from each of the towns, now entitled to a representation in the Legislature. No doubt can be entertained that the thinking part of every County would regard the importance of such an election.

It is said by some that the people ought not to be trusted in a convention. This I view as a direct libel upon the people, whose feelings are at all times correct when consulted. Their judgments are at times perverted by demagogues and knaves. It cannot seriously be said that the people of this state possess at this time less virtue and information than in 1776. In times of tranquility like the present, the people are always competent to form their own government, and choose their leaders. The times are now serene, not warped by party feeling or public rancour. Many of the Atlantic States of late have formed anew, or amended their constitutions. They found by experience, as we have done, that that instrument requires amendment, to be more adapted to the present state of things. The mutability of human affairs requires these alterations, like the garment worn by each individual. Governments with us are made for the benefit of the people, and not the people for the benefit of the governments. The people with us possess the sovereignty of the country, from whom all laws and charters of liberty proceed. When alterations in either are requisite, it is to that sovereignty

in the people; to which application is to be made.

It is said by some that the General Assembly have no right to recommend a convention to the people. This is denied; and precedents are against it. How otherwise were assembled the conventions of Hillsborough and Fayetteville on the adoption of the federal constitution, than by the recommendation of the Legislature? The members of the General Assembly are delegates to make laws under the great charter denominated the constitution, and when these delegates find the charter under which they sit to be defective, or requiring improvement, are they not the most proper persons to recommend an application to be made to the government for an alteration in this charter? Such is the daily practice of incorporate bodies making application to the Legislature by whom they were created, for an enlargement or abridgment of their charters. It may be assimilated to powers of attorney—the attorney discovers some defect in his authority, or that some alteration in it is necessary. I ask who is more fit to recommend such alterations for the benefit of the employer than the attorney, in whom not only confidence is felt but on whom secrecy may be enjoined? If the members of the General Assembly find defects in their charter, or an alteration necessary for the promotion of the happiness of the people; who are so proper as these members to recommend to their employers an amendment in the instrument under which they are delegated? It is more proper for the Legislature to make this recommendation than either the executive or Judiciary; because the Legislature are the immediate agents of the people; and next to them represent in the first degree the sovereignty of the state. The Executive and Judiciary are elected by the Legislature, which is similar to a substitution under a power of attorney. The great charter or constitution delegates the General Assembly to be the immediate agents delegated by the people. These agents appoint the Governor and Judges, who are more remote than the Legislature from the confidence of our sovereign people. Hence it is that the Legislature are competent by common and statute law rules to remove these officers, who are substituted agents under them.

In the old world the principle is different, the Emperor or Monarch is the fountain of power and honour. With us it is declared by the first section of our bill of rights, "That all political power is vested in, and derived from the people only." Hence it is that the people of this state compose the sovereignty, and all offences are declared to be against the peace and dignity of the state. That is the peace of society, and the dignity of the sovereignty. From this we are citizens, subject to the laws, and not to individuals. Which is, that we owe allegiance to the spirit and truth of the laws, and not to images; who have no more rights and privileges than ourselves. So that it is a matter most essential to the liberties of the people, that members to the Legislature be delegated to this important trust as are most eminent for their probity, their fortitude and their knowledge. For when an act of the Legislature is once completed, it is the exercise of the highest authority known to the state; next to the sovereignty of the people. It hath power to regulate all matters of legislation in this state not forbidden by the constitution of this state or of the United States; and such cannot be altered, amended, dispensed with, suspended or repealed, but in the same form, and by the authority. For it is a maxim of law, that it requires the same strength to dissolve, as to create an obligation. The constitutional and inherent powers of the Legislature, are the general and fundamental grounds of protecting and maintaining inviolate to every citizen, personal security, personal liberty and private property. By the common and statute Law, these are to be maintained to each person alike, not dependant on the arbitrary will of a Judge, but are permanent, fixed and unchangeable; unless by an act of the Legislature an alteration is necessarily made in some particular case for the good of the whole. From hence it is clear that the Legislature is the highest political authority in the state, next to sovereignty; and a recommendation from them to the people for a convention of the supreme power, is more proper, than from any other source whatever. The mass of the people may want concert in their operations to produce these ends; but when time and place are recommended for such purposes, the people will move with one accord, if they think action is necessary. The Legislature can make only a recommendation to them, which by the superior power may be adopted or rejected at pleasure.

The expenses of a convention composed of sixty nine members, would not in all probability exceed nine thousand dollars. This sum would be more than saved annually thereafter to the state by a reduction of the number of members composing the Legislature. The laws would be enacted with more accuracy and

\*The writer would with submission suggest the following plan of ascertaining the sense of the people on this important subject. That, a Box at the August elections be kept for this purpose, into which the votes for a member of the convention are to be placed. When these votes are counted, if the whole number thereof did not make a majority of those votes given for members in the House of Commons from that County; in that event it would ascertain the sense of that county to be against a convention. But otherwise if such number made a majority. That the Sheriffs should certify this to the governor who would then be enabled to ascertain whether a majority of the counties approved of a convention or not; and that the governor should make a proclamation of the fact, according to the result.

skill, science and improvements of every description promoted; and in all things a more liberal policy would prevail, to the advancement and prosperity of the state, and the happiness of the people. To the candid and liberal mind a convention would appear desirable.  
A CAROLINIAN.

## Judiciary.

FOR THE RALEIGH MINERVA.  
HUMANITY, NO. II.

In my last number I cited cases of the imprisonment of women, the mothers of families, for debt, and expressed a wish, and a most sincere one, that the laws authorising such imprisonment should be expunged from our code, as being disgraceful to us, as a liberal minded, enlightened, humane, and civilized people.

The sober and dispassionate exercise of reason will convince the greatest sceptic, that the imprisonment of women, for debt, is radically wrong; as being immoral and of pernicious consequences in its effects upon society; and that it is impolitic every statesman and philanthropist will admit. Both of these propositions the following short train of reasoning will, I think clearly establish.

It is a sound political axiom, "That when the sum of moral evil resulting from a law is greater than the probable good, such law should be repealed."

That the imprisoning of women for debt produces a greater sum of moral evil, than of physical good will be admitted by whoever has looked into the passing world and viewed attentively and with an inquisitorial glance, the different classes of which society is composed, and marked their habits, their grades of thought, and the influence of example upon them but more particularly upon the youthful and uninformed. It will then be seen that the imprisoning women for debt can answer no good end whatsoever, as it regards the payment of debts; for it is impossible for a person whose credit is annihilated, and whose talents and industry are precluded execution by confinement, to procure or make money. While on the other hand it not only opens a door to, but it will be seen that it absolutely promotes, vice and immorality in their most dangerous and seductive shapes. Many a woman respectable in character and pure in mind, may be driven by dire necessity to obtain, with the fairest prospects and intentions, a credit to relieve the pressure of extremity for the moment; while others of a different stamp urged by a passion for dress and show, shall obtain a similar credit in an evil hour from some person whose libidinous desires are only subordinate to his lust of money. This wretch by taking an ungenerous advantage of the necessities of the one, and the phrenetic passion of the other, makes them indiscriminately his debtors, and when once they are encircled by the legal web thus artfully drawn around them, the law in the shape of imprisonment for debt, is made pander to the gratification of his unbalanced desires. Need I say what too often is the result, or what the choice? It is unnecessary; human nature is frail and more particularly liable to err, in either man or woman, when bowed down by misfortune, and goaded by the two-fold fear of want, and of public disgrace and imprisonment. They, thus polluted, are driven from society, never to retrace their steps; among the light hearted, innocently gay and virtuous. But here I must stop. Humanity and modesty require I should stop and throw a mantle over the distressing, the heart rending, dire prospective scene!

Let it not be thought that this is a fictitious view of the subject, exhibited to excite the feelings of the reader, and public sentiment, against imprisonment for debt! No! It is a picture painted from life, and what may be frequently, nay daily seen passing and practising as it regards poor women, and from the petrifying and destructive operation of which, neither age nor youth are exempt. It is thus that the laws are prostituted and the ministers and organs of the laws made, sometimes unwittingly, to subvert and promote the most oppressive and villainous designs of the most depraved and licentious beings. Through them the respectable matrons and the hitherto spotless maid are driven to wander forlorn outcasts from society, deprived of pity and of all social intercourse with the good or kind, and left a prey to a broken heart and to every species of want, misery, and wretchedness.

This is a true picture, as far as it goes, of some and only some of the effects of this dangerous, this impolitic and immoral law; as a still more fully prove by the relation of a true story that shall be the subject of the next number of

HUMANITY.

## Strayed.

ABOUT the 27th of January last from the subscriber, living two miles below Raleigh, a black horse colt, two years old, of the Spring, the colt was well formed had a long tail, one foot behind white and some white in his face. Any one who will deliver said colt or contrive me word so I get him again shall be justly rewarded by me.

April 9, 1849.

ALFRED LANE.  
13—tw.

Letters remaining in the Post Office, Mill Grove, N. C.

MARY W. ALEXANDER, 1.—Mary Cooke, 1.—Mary Carrigan, 1.—Robert Carson, 1.—John Jameson, 1.—W. son McKee, 1.—David McKee, 1.—Jesse Price, 1.—John Road, 1.—James Steel, 1.—John Woodside, 1.

March 27, 1849.

JOHN HAYNE, P. M.  
13—3wp.