

The Hillsborough Recorder.

J. D. CAMERON, EDITOR AND PROPRIETOR.

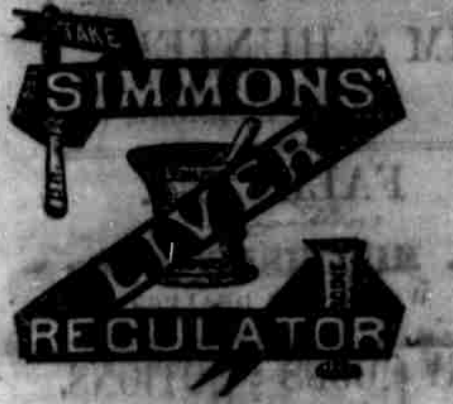
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For the Recorder.

May I ask space in your Journal for a somewhat fuller discussion of the *Constitution Question*, than as far as I know, it has yet received? I regard it as the question of the hour—the question of the future. Upon its decision in my judgment, more than any, than all others, depend the future weal or woe of our good old State. It is an admitted principle of political science that no people can reach any high stage of progress, whose institutions are not in unison with their genius and antecedents. All history testifies that the civil convulsions which have rent society at different periods, have sprung out of the efforts of the people to convert their institutions to their then state of advancement. In this is to be found the germ of every revolution. And when the tide of feeling steps short of open violence in the effort for reform, the popular mind becomes sore; it broods sulkily over public wrongs; all sense of attachment to the State is lost; and the general discontent finds vent in emigration from the State. The young and energetic particularly will not stay where great political evils exist, the removal of which is hopeless. In such a country enterprise has no career; industry is unavailing. In such a condition of things, it is the highest impulse of duty to go away, and seek some better land.

The recognition of this principle is now universal. The great problem of political science, in our day, is to adjust the institutions to the people. This principle underlies every written constitution, since every constitution makes provision for its own amendment for adjustment, and therefore to every state of progress.

Does this principle apply in our case? To our constitution suited to our people? Upon this question, the people of North Carolina have again and again spoken out, and spoken most emphatically.

To me, it seems that this constitution was framed, and purposely too, in direct disregard of the feelings, traditions and political usages of our people. Nor can it be wondered at; since the men who took the lead in the constitution of '68 had come into the State but a year or two before; a few of them in the Federal army, most of them in its wake. The predominant feeling of them was hostility to our people; the motive of their presence in that body was personal advantage. Of the honor and interests of our State not one of them ever thought for a moment. The mind of North Carolina was not spoken to that Convention. A few able men, natives of the State, were there, but the brand of disloyalty was upon them—a brand as fatal to influence then, as it is now. Upon this point—that of the conflict of the present constitution with the past, history and convictions of our people—it is to be wished there were space to go somewhat into detail; but in due acknowledgment of the courtesy which has opened your columns to me, I must confine myself within narrow limits. I will content myself and therefore with presenting some of the points on this head along with some of the more prominent points respecting other parts of the constitution in the briefest terms. To show the spirit of the respective constitutions I arrange the points in the sharpest contrast.

1st. The first point is the tenure and power of the executive. Our fathers ordained this—the Monarchical feature of the Government within the narrow sphere, and endeavor, its responsibility by short terms.*

The present Constitution has doubled the term of office and greatly enlarged the powers of the executive. The power of appointment vested in the executive makes it a controlling power in the government, and under the decisions of our Supreme Court, a constantly expanding one.

2dly. The old Constitution gave full prominence to the popular branch of the government—to wit—the Legislature. The appointments made by the executive were provisional; they expired upon the next legislature and were then filed by the representatives of the people.†

The present Constitution subordinates the popular branch to the Executive; the Executive appoints and holds until the next election. An appointment by the Governor is thus, *pro tanto*, transferred to one man; a step towards centralism now so much, and so justly dreaded. This exaltation of the one man power is utterly opposed to the traditions and instincts of our people. The history of the State from the beginning, is a protest against it.

3dly. Under our old Constitution and the forms of government instituted under it, the Executive recognized the majesty of the people and was amenable to the tribunal of justice.

The Chief Justice of our State has declared that the Executive is above those tribunals, and that too, when the powers with which the Executive is clothed for the common good,—are turned to the destruction of the liberties of the people. The doctrine that the Judiciary is executive, just at the point when the powers of the Executive are directed against the rights of the State, is a doctrine that the Constitution and its framers intended to guard against. The purpose of government is just at its greatest need.

The new Constitution secured what was the prime object of our fathers, to wit, a good and cheap Government.

The new Constitution which admits a doctrine like that last mentioned, is not only not good, but is a positive curse. As to the other point, the present Government is built upon a foundation of corruption and fraud; it is a government of offices and patronage beyond all need, and to the gross oppression of our people, and our people have lost two thirds of their property in kind and value, their burdens have been increased many fold.

The old Constitution secured an impartial administration of justice—freedom from bias, prejudice and all personal feeling by interposition of judicial circuits. The new Constitution condones the Judge to one circuit; they greatly multiplying the difficulties of an impartial administration of justice; it is the Judge by his feelings, passions and prejudices if he be a bad man. Moreover, it takes the Judge in one district, for a whole term of eight years. This system has made the judicial tribunal, in certain parts of our State, the butt of popular ridicule and contempt.

5th. The highest of all human rights are the rights of citizenship. They were accordingly guarded by the old Constitution with jealous care. No man with the taint of crime upon him, was allowed to exercise that sacred right.

The new Constitution breaks down all distinction between man and man upon this point. It gives the same power over the State to a convicted felon, that it gives to the most virtuous citizen; that is, the same power to him who is seeking to preserve and build up the State, as it gives to him who is seeking to destroy and build up the State. It is not this provision a commentary upon the character of the men who framed this Constitution? Is it not a declaration that their own fate was involved, if any rate of execution was adopted?

7th. The rights and duties of a citizen are reciprocal. The exercise of rights should be contingent upon the performance of duties. No man should be admitted to suffrage till his dues to the State are paid; until his tax receipt is exhibited. Nothing would impart such value and dignity to the right of suffrage.

The present Constitution gives to the man who contributes nothing to the State the same control over its resources, that it gives to the most careful, prudent and conscientious of its citizens. In the two particulars last mentioned, the framers of this Constitution virtually declare that in laying the foundations of a Commonwealth, integrity and honor should command no peculiar respect, while industry, prudence and thrift are of no account in the practical working of a Government. The non-recognition of moral principle except in empty phrases is a most marked and inherent feature of this Constitution to me. It is not telling like a steady rain upon our commonality, for the most holy doctrine of public morality among us.

8th. The old Constitution embraced only those principles which are fundamental and permanent; those which were only temporary, and expedient were left to be changed or altered as the people might deem best.

The new Constitution disregards this old and well recognized distinction; confounds organic with legislative principles; and lies up, with jealous distrust, the popular branch of the Government, to which, indeed, it is every where inimical.

The evils of this many; let it suffice to mention two: its influence upon immigration; its effect upon the introduction of capital, and the establishment of manufactures in our State.

1st. Immigration is the most imperative need of our State—we want laborers and citizens to till the waste, and strengthen the Commonwealth. There are only two methods by which immigration can be secured, the State having no public domain; one is by paying the costs of transporting immigrants, the other is by exempting them from taxation for a series of years. Both have been tried in the past history of the country, the latter successfully.

Upon this latter issue—our only hope to accomplish this great and vital object—we are absolutely and wholly cut off by our present constitution; of the former it is useless to speak, in the present condition of our people.

2dly. Many of our sister States are inviting and luring manufacturers by exempting them from taxation for a term of years.

Our present Constitution leaves us no such resources. We are bound with fetters. We can only stand by, impotent and hopeless, while capital and immigration flow into our sister States peopling and enriching them.

I have thus touched some of the most salient points. I hoped when I set down to observe upon many others; but I fear to trespass on your patience and therefore pass on.

It will be observed that all that I have said is grounded upon the validity of the constitutional amendments recently made. If these amendments are declared invalid by the Supreme Court, as it is now said they will be, then the old questions of the 'State debt'—'Consent'—Annual Legislature &c. which we hoped had been disposed of, now again to view in all their dread proportions, and strengthen the considerations here submitted with irresistible force. There is then no room for argument. The decision of the people in favor of Constitutional Amendment

has, in that state of things, been authoritatively pronounced. There is nothing left to discuss.

But admitting the decisive character of the amendments to the present constitution, shall we propose changes by a Convention? or by Legislative action or by a Convention? The method of Amendment by Legislative action is subject to my judgment to the very gravest, way, to unanswerable objections. It boasts, I know, an honorable pedigree. It is drawn from our old Constitution, into which it was inserted by the Convention of '35. But to those who know the circumstances under which it was adopted, its expediency will need vindication, and vindication will need more than a 'pedigree' to sustain it.

It was not in the Convention of '35 it was inserted into the Constitution of '35 against the views of its ablest statesmen. It would not have been proposed at all, but for the opposing attitude of the East and West on one question. That question through the changes brought about by the War, has passed away forever. Is there any thing in its principle to recommend it to adoption and use? As I said, the objections to the principle seem to me to be invincible.

1st. This method is too slow and cumbersome when the necessity for a change in the Constitution is pressing. It requires the cooperation of the Executive, the Legislature and the people. First, action by the Legislature; then by the Executive; then by the Legislature again, and lastly by the people. It thus requires years to carry out the principle. If there be any principle in the principle, it can only apply in case when delay is of no vital consequence.

2nd. It complicates questions of organic law, with mere matters of ordinary legislation; neither would therefore receive that enlarged deliberate attention which questions of the former character imperiously demand; if they did, it could be only by such a prolongation of the session, as would make it equal in duration to the session of the Legislature and of a Convention combined. There would therefore be no saving of either time or expense.

3rd. It subjects such questions—at least so far as regards the Supreme Court, to the jurisdiction of the Supreme Court. The Supreme Court thus practically decides whether an amendment shall operate or not.

4th. From the magnitude of the questions, affecting as they do the organic law, the Supreme Court would be slow to decide a decision may be postponed from term to term, again and again; and then added to the delay inherent in the method is the further delay arising from litigation. Meanwhile the people are left in utter uncertainty as to the Supreme Law of the land—the *leges legum*. This is actually the case now.

5th. No Court could possibly be an impartial tribunal for many of the questions that will necessarily arise under this method. For example, one of the questions that will probably spring up, regards the constitution of the court, as respects the number of the Judges and the tenure of their office. Upon such questions no court could be impartial.

6th. It is inconsistent with the dignity, the sovereignty of a free people, that their highest judgments should be submitted to any tribunal.

For these reasons the objections to the principle of amending the constitution by Legislative enactment seem to me to be insuperable. But objectionable as this method of constitutional reform is, it would have been comparatively harmless, if applied as it was intended to be under the old Constitution, to questions which would arise in the gradual progress of our government. In questions like those—springing from the regular growth of the political community—a mode of reform dilatory and even tedious might possibly suffice. Such a state of things, however, is the farthest possible from that in which we find ourselves. The questions which press upon us were precipitated by the destruction of our government in 1865, and the manner in which our present constitution was formed. The destruction of our old Constitution was sudden, overwhelming, complete; the new one was imposed upon us by a convention made up, so far as regards at least eight out of ten, of men entirely ignorant and illiterate, and for the rest, of men who knew nothing of our antecedents feeling or wishes; nothing of our situation and resources; men who had no other conception of what was to be done, than to adopt mainly the constitution of some other State, however alien or oppressive to us, interspersing it with clauses from different constitutions however inconsistent so ever they might be. It is impossible but that a Constitution so framed, should present numerous questions; questions which reach to the very vitals of the Commonwealth; questions for which Legislative reform offers no remedy.

Now a convention is subject to none of these objections. It is the embodied sovereignty of the people. It is the proper tribunal for the consideration and decision of all those questions which lie at the foundation of government. The people recognize its supreme dignity, its paramount importance. The delegates are chosen from the ablest, wisest and most experienced men in the State. Every one, on looking over a list of the members of any Convention, must be struck with the difference between them. The difference in the opinion of the people, judging by this test, is immeasurable between those who are eligible to the one and the other. Moreover, it is the only way by which we can avail ourselves of the talents, acquirements and experience of the public men now in office. All our Judges could sit in a Convention. Our Chief Justice of the United States sat in the various Con-

ventions of 1820-30 and high officers sat in our Convention of '35. In no other way can the people have choice among our best men. A convention is the only method of amending our constitution that is perfectly consonant with the spirit of our institutions. It can deal with all our grievances and deal with them at once. It will deal with them under a sense of obligation and responsibility which a Legislature never feels. It would secure for the several subjects of deliberation the attention only possible with such divisions of labor. It would save the people from those incessant agitations which so many grave questions are bound inevitably to engender. It would exclude all doubt and uncertainty as to our organic law, since it would speak authoritatively and finally. It would settle every constitutional question for a quarter of a century to come. It would restore tranquility to the public mind; call out the affections of the people to a government of their own choice; lead them on in the new career of prosperity which a constitution adjusted to the times would open up to them.

A majority of the journals of the State have pronounced against a convention. If they have given expression to the convictions of the people, there would be no more to say; for with the people the decision of this question must rest. If, however, it shall be found that this opinion is based rather upon the *prejudice*, than upon the *expressed* judgment of the people, then the question is as open to discussion as before. This discussion would be favored by the journalists themselves, for as a class, none are more partial to free inquiry; none more anxious to reach a right conclusion in this matter.

It is clear, that capacity and access to information apart, the opinion of the journalist on this subject is worth no more than that of any other citizen. It is a question of fact and while the advantages of those who conduct the press of the State, are, over the generality of men, undoubtedly great in respect to the particulars mentioned, yet even here, they themselves would admit that the advantages of thousands of our citizens are equal to their own.

Now it is conceded that upon this subject there has been no recent expression of opinion by the people. It is three years since they were called upon to vote on this question; for three years, the people have been silent so far as regards a definite declaration of their views upon the question. If they have been silent, it must be admitted that any conclusions respecting their opinions at this time, must be conjectural. But, in all candor, let it be asked, is it consistent with the nature of such momentous issues to rest their decision upon a guess at popular sentiment, based upon action which took place three years ago? Shall we take no note of the progress of opinion during that period? Is Conservatism Statesmanship of that sort which looks backward only, and fears or refuses to face the questions of the day?

Let us glance a moment at some of the chief objections which have been urged to a convention. The one most relied on, and most frequently urged is, it must be confessed sufficiently ill-defined. It seems to grow out of a vague dread of doing anything at all. It declares any movement looking to a convention to be 'impolitic' since it would put to hazard the fruits of our recent victory. It is difficult to appreciate the force of this objection: If our late triumph had been the result of any great and sudden excitement, which swept the people out of the ordinary track of opinion; if it had been obtained by a resort to doubtful political expedients, then this objection would have great weight. But the latter was never charged by even our political adversaries, and we know that no such excitement existed. There was, it is true, the civil rights bill, but that was no new issue. It had been before the country for months; it had been debated at length in both Houses of Congress; it had been fully discussed by the press of every State. It would, probably, be strictly true to say, that no election was ever freer from excitement. Many issues were embraced in that election and so far as the civil rights bill was concerned, the people went forward on the day of election to record a verdict long made up, to wit, that it was at once unconstitutional; destructive of our society; destructive of the peace of the two races; above all, degrading to the white race. It was done so quietly and calmly as to afford a spectacle of the truest moral grandeur. It was a simple exercise of right and power by a free people. Such an exhibition of quiet power, in presence of so much danger to institutions and to race, will make that election be ever pointed to, as one of the noblest achievements of a free government. It will be regarded as a crowning proof of the capacity of a free people to appreciate the greatest questions, and to deal with them with the same calmness of temper with which they would treat an event of daily occurrence.

It is a great mistake, says a gentleman I understand, to interpret the late election as to mean a check upon the movement toward constitutional reform. Equally so, it is to hold, that it amounts a pause in the movement. The true lesson of that election is the aversion of this. So far from being a warning against proceeding further, it is a harbinger beckoning and urging us

onward to all needed reform. It demonstrates an awakening of the people to a true perception of the issues of the day. It is a proclamation by them, that all things are not as they were. Not to see it, is to be blind to the signs of the times.

Again as to the objection of 'impolicy' let it suffice to say, that the principles with which we have now to do, underlie all property and personal rights; that they do not admit of tempering expedients and that they demand perpetual assertion, and unceasing effort to give them effect—to put them in operation. If a free people assume any other attitude in the presence of such questions they forfeit their highest rights; they ignore their most solemn duty.

Another more tangible ground of opposition assigned is, the supposed popular apprehensions on account of the 'Homestead.' If there be any foundation for this impression, the difficulty can be easily obviated. The Convention can be called under the limitations and restrictions set forth in the act of the Legislature. According to the theory of our government (the language will be recognized as that of Judge Gaston) 'all political power was derived from the people, and when they choose to make a grant of power, they may make a plenary or restricted grant; they may give it all or in part.' The Convention of '35 established the precedent.

But if it were an open convention, there would not be the smallest danger. There is not an enlightened man in North Carolina who does not know that the policy of the 'Homestead' is sanctioned by the spirit of the age; by the judgment of all right thinking men and by the example of many States. There is no man, no matter what his reputation or past services, who does not know that he could not stand an hour in opposition to the Homestead. Nay the combined opposition of all that we have amongst us—however distinguished for talents or virtue—could avail nothing in opposition to it. If our public men even opposed to it, they know that their opposition would be, not only nugatory, but fatal to themselves.

But our public men are in perfect accord with the spirit of the age in this matter. Accustomed to the consideration of subjects of this nature, they appreciate the Homestead more highly than the people themselves do generally. In its principle, as the *sure refuge of the family in case of disaster*, it commends itself to the warmest approval to the good and the wise. Beyond all doubt, our public men as a class need its protection as much as any other.

Further, this objection assumes an ignorance on the part of the people which does not exist. They know their power and that they can command the fidelity of legislators and delegates, if they were disposed to be unfaithful. They know that if the Homestead were not sanctioned by the spirit of Christian jurisprudence, yet after a desolating Civil War, it would be a necessity. They know that once fixed, it takes deep root in the institutions of the country, and is to be as enduring as our granite hills.

But yet again; who will be the delegates in that Convention? A very large majority are to-day pursuing their usual callings; undisturbed from their fellow men; one with them in feeling and interest, nay a part of the people themselves. When the duties, to which on account of their sense, judgment and information they shall be delegated, have been performed, they will go back and mingle among the mass of their fellow citizens, will return among the people, and become a part of the people again. Is anything to be feared from a Convention so constituted? Not until the people conspire against themselves; not unless they shall be supposed to be capable of plotting their own destruction!

It is said, and this objection weighs most with many, that this question did not enter into the late canvass. To this the answer is obvious. The Conservative party of North Carolina is by its very origin and antecedents a party of reform. It owes its second-birth to a convention on the part of the people, that its mission is to redress the grievances under which they now labor. From the hour of its formation it has, through the Press, through the Legislature, and through its public speakers, held up these grievances to the public vision. It has asserted all along that those grievances being ever present in the present Constitution could only be adequately dealt with by the people in Convention assembled. It proposed a Convention, but it was rebuffed on account of a vague alarm about the Homestead and the supposed attitude of the General Government. About the Homestead there is no decision today; it is recognized as an integral part of our institutions; it is evaded by a recent, more nearly universal than any part of our organic law. It will be as enduring as the Government itself. The General Government no longer evades any terror in this matter. The people feel that they incur no danger in the exercise of a Constitutional prerogative. They realize that the good of the whole is made up of its separate parts. They know that the interests of the General Government cannot be better promoted in the State of North Carolina and here by the establishment of a Government, in unison with the feelings,

(Continued on the next page.)