THE SENTINEL.

JOSIAH TURNER, Jr., EDITOR.

SATURDAY, JULY 24, 1869.

THE VICE PRESIDENCY.

John B. Neathery and General Milton S. Littlefield—the latter late of Florida—have opened a vigorous canvass to secure for Governor Holden the nomination for the Vice Presidency in 1872. There is nothing like an early start, as the Governor well knows; for he held himself out as candidate for Governor for fifteen years before he obtained the prize, and got it then, only after a hard scuffle.

If the Governor can only obtain the co operation and assistance of Cebe, Laflin, Patrick, Brewer, Menninger, Judge Logan, and the Supreme Court, in addition to the timely efforts of John B. and the General, he may get the nomination. We presume he may count confidently on the Court, as we take it as a matter of course that he has signed the petitions of both Judge Pearson and Judge Rodman, gotten up by their respective friends, to President Grant, for seats on the bench of the Supreme Court of the United States. We say, we suppose he has signed both, from the fact that he signed the petitions of, and recommended, several men for the same Route Agency on some of the Mail lines.

Then, should there be a general jail delivery at the Dry Tortugas, and the Lincoln conspirators all get home, the Governor may count on them, because of the former sympathy that existed between them, when the Governor asked, in the *Standard*, "Who will plot for the head of Abe Lincoln?" Pop! went the pistol! off went his head! So much, not for Buckingham, but for Gov. Holden and the *Standard*.

All the carpet-baggers in the State will go for the Governor in addition to the support he may expect from the above sources, and the only difficulty will be in getting the South all right. As we are disposed, always, to encourage native talent, and to "give a modest man a chance," we will remind the people of the South, of the Governor's services in behalf of the "Lost Cause," how he signed the Ordinance of Secession; his patriotic efforts in driving Professor Hedrick, the abolitionist, from the University; how he denounced Seward, Boutwell, Sumner, and others, in the days when he was either very sincere or very hypocritical, no matter which, and as a further palliative to any hesitancy that may be felt, either North or South, in throwing up their hats in ratification of the nomination made by John B. and the General, we reproduce the following, written by the Governor, in the North Carolina *Standard*, January 1st, 1862.

From the Raleigh Standard Jan'y 1, 1862.

OUR CONFLICT WITH THE NORTH.

All the information we have recently received from the North is to the effect that the people of that region are more intensely excited against the South than ever, and their preparations, both by land and sea, are constantly going forward and increasing in magnitude. The government of Lincoln, in its most cruel acts, and in its open violation of every principle of English, American, human liberty, is but the embodied hate, and envy, and malice of the Northern people. They are determined not only to defeat us in battle, but to destroy us, if they can. They regard neutrality even as a crime, as shown by their course towards Kentucky. Their tender mercies are before us in the grievous and inhuman wrongs which they are heaping on Maryland, Kentucky and Missouri. Even the deluded creatures who are still Union men in those States are not secure in their persons and property; while those who are true to the land that gave them birth are visited with the confiscation of their property, with insults to their wives and children, with imprisonment, exile, and death on the battle field. What, then, is in reserve for us of the seceded States, in the event of our being overrun by these worse than Hessians?

We believe that the people of North Carolina are, of all the Confederate States, the most united in their determination to resist the Northern government to the last extremity. They counted the cost before they commenced the work of independence. They knew that war would come, but they did not shrink from it in defence of their rights. They have been free for eighty years, and, by the blessing of God, they will remain free or die in their tracks.—They will make no compromise with the North—they will never cease to fight as long as a federal soldier is on Confederate soil—they will agree to no terms which will not permit Maryland, Kentucky and Missouri, deliberately to decide their own destiny; and they will accept nothing less from the North than the fullest and most unqualified acknowledgment of the independence of the Confederate States.—We know what all this involves. It involves many battles and much suffering.—It involves high taxes, a paper currency, the complete loss of trade with the rest of the world, hard times, and gloomy times, and the sacrifice of thousands of lives. It involves, probably, a struggle not merely during this year, but for many years. As John Adams said—after the declaration of independence was made against an enemy not so unjust or so cruel as our present enemy—we say also, "I am not transported with enthusiasm. I am well aware of the toil, the treasure and the blood it will cost; yet through all the gloom, I can see a ray of light and glory. *I can see that the end is worth more than all the means.*" It is so with us now—"*the end is worth more than all the means.*" It is this quality of looking to and providing for the future, and of suffering to render the future tolerable, if not secure and happy for our children, which elevates men in the scale of being, and makes him worthy of those great gifts of reason, imagination, and lofty disregard of death in a righteous cause, which Providence has bestowed upon him. Our brave troops, we know, are enduring inconveniences and privations, and some of them are suffering, but let them remember that nearly all Gen. Greene's army in 1781 were "almost naked" [illegible] General, which ended with the battle of Guilford, his men "were nearly all destitute of shoes and clothing, and many were [illegible] gashes inflicted upon the naked feet of the champions of liberty, while the British were comfortably clothed and supplied with good shoes, yet no complaints escaped the lips of the Americans, who lost not a single man by desertion"—that at Valley Forge, in crossing the Delaware, and other places, our forefathers marched over the frozen ground, marking it with blood from their naked feet, while for the greater part of the time they were hungry and cold, without their wages, and nearly starved.—We trust our brave boys will never be reduced to this extremity, but it will encourage them, and it will encourage all of us to bear in mind the sufferings which our forefathers underwent to achieve our liberties.

"The end is worth more than all the means." We shall certainly triumph. The wicked and cruel people who would convert four millions of happy laborers into savages, by bestowing on them privileges which Providence never intended them to possess, and who would divide our property among themselves, and reduce us to slavery, will be foiled and driven back. The God of battles, who rules on the earth as in the armies of heaven, will continue to fight for us if we are only true to ourselves.—Courage, then, all! Let us be united, and patient, and firm, and loyal, and self sacrificing in every emergency. The "ray of light" will increase until it discloses its source, the sun of victory. Our independence once achieved, North Carolina will be one of the most prosperous States in the world. We shall enjoy ourselves, and leave to our children, not only liberty, but all the blessings which toleration in religion, and the industrial pursuits in field, and workshop, and education, and the arts and sciences, and peaceful commerce with other nations, can bestow upon us.

MURDER.—The imminent peril which has hung over the good people of Alamance and Jones counties, is now apparent, from the bloody fray of the Holden Militia, as illustrated in Goldsboro, yesterday afternoon.

A citizen of Goldsboro, now in our office, was an eye witness to the riot and disorder, which ended in the murder of one man, and the serious, if not fatal, stabbing of another, of Holden's militia.

Our informant states that many of them were intoxicated when they arrived in Goldsborough. They stacked their arms under the railroad shed, and wandered over the town. At a house of ill repute, Putney, the man who was killed, and Moss, the one stabbed, had a fight in which Moss received the stabs that at first were considered mortal, and which may yet prove so. Putney stabbed Moss for advising him to have no quarrel with one Andy McGuire. Putney and Moss were arrested and taken to the Railroad shed. Here the quarrel was renewed, in which others of the Company took part. Putney attempted to get his musket, when some one struck him twice with a bayonet in the back, and stung wounds of which Putney died in a few hours. Moss still lies in Goldsboro' in a critical condition, while the Governor, with all the apparent complacency of a good man, in the contemplation of his own virtuous actions, will still continue his visits to the grog shops, talking about "my militia."

M. L. King, one of the Company, has been arrested and is yet in custody in this city, on a charge of the murder, and we are informed that two of the Company are under arrest in Goldsboro' under charge of complicity in the affair.

Now, Governor Holden knew Putney well. He knew that he rested under strong suspicion of having murdered two persons in this city before he enlisted for the Jones county invasion. He knew from his turbulent temper he was not a proper person to send on a peace mission. No sensible man believes the Governor is seeking peace, but making political capital for the coming elections. King, Putney, Moss, and others, will suffer all the punishment and feel all the mortification which attends the unfortunate and bloody tragedy.

Putney, poor fellow, was no doubt to blame, and fearfully has he paid the penalty of his rashness. We have heard no one speak of his murder, however, who does not censure the Governor as the first prime cause of it. The Governor may feel no compunction about it, for want of moral sensibility; he may perhaps, give material aid to Putney's widowed mother, because her son fell in his cause; then Putney and his services will be forgotten by the Governor, forever.

This sad affair is a fitting finale to the unnecessary, expensive, and malicious military expedition to Jones county. It was conceived in sin and brought forth in iniquity; they went to Jones, went into camp and there remained for a month without doing anything or finding anything to require their services, have entailed a heavy expense upon the county, wound up with a riot and the death of at least one man, and an expensive criminal trial of others for the murder.

"WHAT AILS YOUR EYE, JOE?"

"What ails your eye, Joe?" "I told a man he lied," replied Joe."—*Standard.*

This is the most unkindest cut of all.

> "But yesterday, a king,
> And armed with kings to strive,
> But now thou art a nameless thing,
> So abject, yet alive."

But yesterday, when Joe presided as Speaker of the House, the *Standard* called him "Hon. Joseph W. Holden." Now, that Joe's eyes are closed and swollen, from the effects of a mercantile mauling received in Tucker's back yard, the *Standard*, in derision, asks, "What ails your eye, Joe?" It is adversity which tries true friendship.

> "A friend's like a ship, when, with music and song,
> The tide of good fortune speeds him along;
> But see him when tempest hath made him a wreck,
> And any mean billow can batter his deck.
> Give me the heart that true sympathy shows,
> And clings to a mess-mate whatever wind blows."

"What ails your eye, Joe?"

The body of Mr. Julian Leach, who was drowned below Wilmington last week, had to be buried on the beach, because a metalic coffin could not be obtained in which to take him to Davidson, the home of his father.

James H. Abrams, convicted of an assault in Wilmington, and sentenced to a fine of $200 and imprisonment one month, has been pardoned by Gov Holden, on the petition of many of the citizens of that city.

SUPREME COURT.

In the Case of the University Railroad Company vs. W. W. Holden—Opinions by Chief Justice Pearson and Judges Reade and Dick—Bonds for Building New Railroads Declared Unconstitutional.

Mandamus dismissed. Power of taxation discussed. Held that the equation in Art. 1, Sec. 5, does not apply to the old debt, or to debts contracted to aid or unfinished roads. No power to build new roads without submitting the question to the people. No limit to power of Counties to levy taxes for necessary expenses, designated in Art. 7, Sec. 2, provided they obtain special law of the General Assembly, and they need not be submitted to a vote of the people.

OPINION OF CHIEF JUSTICE PEARSON.

I. I incline to the opinion that the act entitled "An act to incorporate the University Railroad Company," does not have in law, the effect to create a corporation. To give legal effect to a grant, there must be a grantor, a grantee, and a thing granted.—Here we have a grantor, the General Assembly; a thing granted, corporate powers and franchises "to the same extent as are possessed by the North Carolina Railroad Company;" but there is no grantee—no person, persons, or body politic to whom the grant is made. If this be so, it would seem to follow, that the directors who are to manage the affairs of said "University Railroad Company," there being in contemplation of law, no company, cannot have such rights as are enforced by the writ of *mandamus*.

II. In my opinion, by the proper construction of art. 5, sec. 5, of the Constitution, the General Assembly has no power to contract a debt to build a new Railroad, unless the subject be submitted to a vote of the people. It is decided, Galloway *vs.* Jenkins, 63, N. C., rep., 147, the General Assembly has no power to contract a debt, without a vote of the people, *to aid* in the construction of a new railroad. If the General Assembly has no power to contract a debt, for the purpose of building a new railroad, with the assistance of contributions by individuals, county subscriptions, and subscriptions by other railroads, it would seem it cannot have power to contract a debt, for the purpose of making a new railroad out and out. A prohibition not to contract a lesser, surely amounts to a prohibition not to contract a great debt for the same object. The evil which the Constitution seeks to prevent, is not that of giving aid to individuals or corporations in the construction of railroads, but the evil is, that of contracting *new* debts on the part of the State, the existing debt being almost too heavy to bear, and the credit of the State tottering under the load. A construction by which new debts may be contracted on a larger scale than one expressly prohibited, is not admissible upon any principle of law. As this is a deduction from Galloway *vs.* Jenkins, in which the Court was divided, I will put my conclusion, also, on the construction of all the provisions of Article 5.

III. The act under consideration is in violation of the Constitution in this: the tax levied by it disturbs the proportion which, by the Constitution, capitation tax must bear to the tax on the value of property, to-wit: "*The tax on a poll shall be equal to the tax on three hundred dollars worth of property.*" Here we have the proportion. Then follows a provision: "The State and county taxes combined, shall never exceed *two dollars on the head*;" and the necessary effect is, that the State and county tax on the value of property shall never exceed two dollars on three hundred dollars worth of property; and the effect also is, that if the tax on a poll is less than two dollars, then the tax on three hundred dollars worth of property must be less in the same ratio. In other words, the tax on the poll is "*the standard*" by which the tax on property is to be levied.

Under two dollars, the power to levy a poll tax for State purposes is unlimited; *this interest* needed no protection, for it has a full representation in the General Assembly.

Counties are protected by Sec. 7, which provides "taxes levied for county purposes shall be levied in like manner with the State taxes, and shall never exceed double of the State tax, except for a special purpose and with the special approval of the General Assembly.

Cities, towns and *townships* are protected, [Art. 7, Sec. 7,] which provides, "no debt shall be contracted, nor shall any tax be levied except for necessary expenses, unless by a vote of a majority of the qualified voters therein."

The only remaining interest is that of *property holders* in respect to State and county taxes. This interest is protected by the equation fixed between capitation tax and tax on property. A statute which disturbs this equation breaks down the safeguard thrown around property by the Constitution. It it can be done to the extent of one hundredth of one per cent., it may be done to the extent of one tenth, and there is no limit.

It was urged on the argument, this equation applies only to taxes levied for current expenses of the State and counties, and has no reference to taxation, necessary to pay the interest of the public debt, or the tax to be levied to pay the interest of any new debt.

1st. I agree that, if, under this equation, carried to its limit, the amount is not enough to meet current expenses, and also to pay the interest on the public debt, then for the excess needed it is not only within the power, but it is the duty of the General Assembly to disregard the equation; for this protection to property must be taken to be subject to the injunction, "to maintain the honor and good faith of the State untarnished, in regard to the public debt," [Art. 1, sec. 6,] and by sec. 4 of the article under consideration, it is ordained, "The General Assembly shall, by *appropriate legislation and adequate taxation*, provide for the payment of the interest on the public debt, and after 1880 it shall lay a specific annual tax, as a sinking fund, to discharge the principal." I do not adopt the extreme position taken by Mr. Haywood, that by a *specific* tax is meant a tax on land by the acre, or on horses and cattle by the head.—It is enough to admit, that this tax is to be independent of the equation; as in sec. 7 a tax for special county purposes, with the special approval of the General Assembly, may be levied without reference to the equation.

2. But I do not agree to the position, that the tax required by sec. 5, to be be levied to pay the interest on any new debt, is not subject to the equation, and that the power to tax property in reference to *new debts* is *unlimited*, save by the discretion of the General Assembly. There is nothing, as we have seen is the case in regard to taxation to meet the interest and principal of the existing debt, to take this taxation out of the equation. Its being called a *special* tax cannot have that effect; for sec 8 requires that every act shall state the special object to which the tax is to be applied. On the contrary, it is included in the equation by every rule of construction.

This fixed equation between poll tax and property tax, gives significance to the provision in the first clause, section 5: "No new debt shall be contracted in behalf of the State, *unless in the same bill a special tax* is levied to pay the *interest annually*.

If the purpose was simply to keep up the price of State bonds, this would amount to but little—such a tax is very easily put in a bill—but consider the purpose to be to restrain the power of taxation in regard to property by reference to the equation before fixed, so that the special tax on property cannot be levied without making a corresponding increase in the capitation tax, and this proviso amounts to a very important practical limitation on the power to tax property, and must have a very decided effect in checking a disposition to contract new debts.

And the exception in regard to "supply a casual deficit," and for suppressing insurrection or invasion, in which cases the equation may be disregarded, speaks volumes, and shows that none was intended in requiring a tax to be levied in the *same bill*, than simply to put the draftsman to the task of adding [illegible] to the bill. It is only [illegible] that this safeguard to property is not to be observed.

Except out of the operation of section 4, the taxation that may be appropriate and adequate to meet the interest and principal of the existing debt, except also out of its operation the taxation necessary to meet the interest and principal of such new debts as shall be contracted in behalf of the State, and the effect will be to emasculate the section and reduce it to nothing. Only cannot [illegible] operate on; and [illegible] by the taxation [illegible] and [illegible] [illegible] by the [illegible] to property holders, [illegible] and [illegible] all amounts to such [illegible].

On the argument it was [illegible] the [illegible] leaving the tax on property to pay the interest [illegible] debt to be contracted for the University Railroad, was passed several days [illegible] the bill [illegible] the Revenue Act, which fixes the capitation tax at [illegible] on the head and the property tax at [illegible] on the $100 worth, [illegible] the equation of taxation; and if this equation [illegible] by the [illegible] bill [illegible] all the taxation of the [illegible] a part of [illegible] the tax on property in the revenue bill in order to make room for the tax on the [illegible] [illegible].

I do not [illegible] neither of the [illegible] [illegible] of the acts, of the same session, are to be taken together. The revenue bill [illegible] with the Constitution, must take effect, and it specially appropriates the amount to be raised under it, to the annual expenses of the State government and to the payment of the interest of the public debt. So the scope of the Legislature. If the General Assembly has power to lay a tax to pay the interest on the debt for the University R. R. without being limited by the equation, then the tax is to be levied. Otherwise it will fail as being levied *ultra vires* and the General Assembly assumes an unlimited power of taxation.

Several cases were supposed in the argument, but they all involved the fallacy, that the General Assembly and County Commissioners have an *independent* power to tax property to the extent of fifty cents on the $100 value, whereas there is no such power, and the right to tax property depends on the capitation tax. Both must be [illegible] jointly, in order to preserve the equation of taxation.

Order in the court below reversed and *mandamus* dismissed.

PEARSON, C. J.

OPINION OF JUSTICE READE.

I agree with the Chief Justice, that no corporation is created by the act, and, therefore, the mandamus must be dismissed.

I do not agree with him and my learned brothers, Rodman and Dick, that the Legislature has no power to contract a debt to build a new Railroad without the vote of the people, but I do agree that the Legislature has no power to *give or lend* its aid *to others* to build a new Railroad without the vote of the people. In so far as the questions discussed in this case, are involved in the case of Galloway *vs.* Jenkins, (63 N. C. R.,) I feel myself bound by that decision, although I did not concur in it. But I am wholly unable to comprehend how it follows, that because the State cannot *lend* its aid to others to build a Railroad for *their benefit*, that, therefore, it cannot build a Railroad out and out for *its own benefit*. If the Constitution forbids the Legislature to lend the aid of the State to New York to build a State House or Penitentiary for New York, would it be supposed, that, therefore, the Legislature could not build a State House or Penitentiary "out and out," for North Carolina? Or would it be supposed that this view was answered by the argument, that the greater includes the less, and if it cannot build a road with the aid of others, it cannot build one without such aid? It is said that the object was to prevent the Legislature from contracting new debts. And yet it is admitted that it may contract new debts for other purposes than Railroads. If the object was to keep the State from going in debt, why not keep it from going in debt for *other* purposes? "If a farmer has a field requiring a fence on three sides, would it do any good to fence it on only two sides?" But I will not pursue the matter farther. And I purposely refrain from approving, or disapproving, the internal improvement policy; because it is not a Judge's province to do so. I only seek to expound what has been done by the Constitution and by the Legislature. If the lawmakers have erred in matters of policy, the remedy is with the people.

My construction of the taxing power of the Legislature under the Constitution is as follows:

1. The first object of the Convention in the 5th Art. of the Constitution, was to provide for the ordinary and current expenses of the government. That is done in sections 1, 2 and 3. And for that purpose the tax is limited to $2 on the poll, and the same amount on $300 worth of property, and equation must be observed. This was thought to be sufficient for the ordinary and economical administration of the government.

2. We had a considerable public debt, and, after providing for current expenses, the next consideration was, how is the public debt to be met? And the 4th section provides, that a specific tax shall be laid for that.

In regard to the construction of the first four sections, I do not understand that there is any difference of opinion among the Judges, except it may be as to what constitutes "the public debt."

3. Taxation is not the subject of the 5th section, except incidentally. Having provided in sections 1, 2 and 3 for ordinary expenses, and in section 4 for the public debt, the next consideration was, to provide for extraordinary occasions. And for such occasions the 5th section provides, not that taxes shall be laid, but that bonds shall be issued; and, as incident to the bonds, special taxes may be laid, not to pay the bonds, but only the interest, leaving the bonds as a part of the public debt, to be provided for under section 4. The power to issue these bonds is unrestricted. From the very nature of the case it must be so. If an extraordinary and unforeseen occasion is to be met, how is it possible to limit the means unless you foreknow the occasion? If there be an insurrection, bonds must be issued to meet it; but whether a large or small amount, must depend upon whether it be a large or small insurrection, and so with any other occasion. It ought not to be supposed, that a Constitution would be framed with such limitations upon the taxing power, as that the vessel of State will sail safely in fair weather, to be wrecked in the first storm. We may well impute it to wisdom to provide, that ordinarily there shall be light taxes and economy in expenditures, but when any extraordinary necessity arises the whole power of the State must be unloosed to meet it. It is admitted that the counties, for special purposes and with the approval of the Legislature, may, under section 7, levy a tax without limit and without a vote of the people. It was supposed that extraordinary necessities may fall upon a county, and may not extraordinary necessities fall upon the State? It need not be inferred that either county or State taxes will be excessive, because the counties and Legislature have the *power* in extraordinary cases to make them so.—Until the new Constitution, there was no restriction whatever upon the power of the Legislature to tax, and yet the taxes were never burdensome. There was supposed to be a sufficient check in the accountability of the representative to his constituents. The restriction in our new Constitution is deemed a wise one, indeed, probably, by the new order of things, and intended to protect the non-property holder from an oppressive poll tax, and the property holder from an unequal property tax, for the ordinary purposes of the government.

I admit that the Legislature cannot give or lend anything to Railroads, which belong to others, without a vote of the people; but if any extraordinary occasion or necessity arises the Legislature may do anything for the State which the occasion may require—may issue bonds at par without limit, and without tax, and issue them below par with a special tax. For any abuse of this power the Representative is responsible to the people. All that the Court can say is, thus it is written in the Constitution.

READE, J.

OPINION OF JUSTICE DICK.

The important questions which are involved in this case were ably discussed by counsel, at the bar, and they have been maturely considered by the Court. I concur with the other Justices in believing that the act incorporating the University R. R. Co. is unconstitutional, and the reasons for such opinion are fully stated by Chief Justice Pearson and Justice Rodman. The difference of opinion upon the Legislative power of taxation has caused some delay in the decision of this case. I think it proper to state the conclusions at which I have arrived, without attempting any elaborate argument on the subject.

The power of taxation is one of the chief attributes of sovereignty, and no constitutional government can exist without it. In Republican governments the usual safeguard against the abuse of this power, is the responsibility of the Legislature to its constituents. Until the formation of our present government no other safeguard against unjust and oppressive taxation was placed in the Constitution of this State.

When the Convention of 1868 met to re model our State government, it saw proper to impose some constitutional restrictions upon the Legislature in relation to the exercise of this power.

We must suppose that the framers of our government did not intend by these restrictions to limit the Legislature in such a manner as to prevent it from sustaining the honor and credit of the State, providing for the exigencies of the government and advancing the best interests of the people. We ought to consider the circumstances by which the Convention was surrounded and construe these restrictions with due liberality. It seems to me that the Convention, in framing that part of the Constitution which relates to taxation, had several objects in view.

The first object was to secure the honor and credit of the State. There was a large State debt which had been incurred in developing the resources of the State; and not only common honesty, but good policy required that it should be secured, and the accruing interest promptly paid. For the purpose of gaining public confidence, the solemn assurance was placed in the Declaration of Rights (Art. 1, Sec. 6,) that the State debt "shall be regarded as inviolable, and never be questioned;" and then to meet this obligation, the imperative duty was imposed upon the General Assembly to make provision for its payment "by appropriate legislation and adequate taxation." (Art. 5, Sec. 4.) Upon a question in which the honor and credit of the State are involved, we cannot believe that any restrictions are placed upon the Legislature which would in any manner prevent it from promptly performing an imperative duty.

The object of the Convention in Art. 5, Sec. 1, was to provide a system of general taxation for the ordinary expenses of the government, which is to operate with a just equality upon the citizens and property of the country. The capitation tax is limited to two dollars on the head, and for the purpose of general taxation, the tax on three hundred dollars worth of property cannot exceed that amount. Sections 1, 2 and 3 establish a general revenue system for the State; and sections 4 and 5 provide special taxes for State indebtedness, unexpected exigencies, and for the completion of unfinished railroads.

The object of section 5 was to place a restriction upon the increase of the public debt until the bonds of the State shall be at par. This restriction cannot, under any circumstances, extend to a debt incurred for a casual deficit, or for suppressing insurrection or invasion; and when the bonds of the State are at par, the restriction ceases as to all new debts *in behalf of the State.*

The restriction in this section requires the Legislature to provide for the payment of the interest of any new debt incurred by a special tax. As to this tax the Legislature becomes directly accountable to its constituents, and this is, in general, a sufficient security against improper legislation in a republican government where elections are free and frequent. This section does not regulate taxation, but provides the manner in which new debts are to be incurred for the general welfare of the people.—The Convention evidently contemplated the necessity of incurring new debts, outside of the ordinary expenses of the government; and if the State credit had been at par no restriction would have been placed on the Legislature in this respect. The debts to be thus incurred are to be "in behalf of the State," and for the benefit of all citizens, and not for any special locality or section.

When the State can get par value for its bonds, and expends the money for the equal benefit of all its citizens, then there can be no impolicy or danger in using its credit for such purposes. The debt is incurred by all for the benefit of all. The special tax mentioned in this section must be *adequate* for the purposes intended, and cannot be regulated and restricted by section 1.

The manifest purpose of the Convention was to provide for the completion, as soon as practicable, of the Railroad system which had been commenced in the State; and the only restriction laid on the Legislature in issuing bonds for such purpose, is, to levy a special tax to meet the interest while the bonds are under par.

In my opinion no new Railroad can be built with State aid, unless the subject is submitted to a vote of the people, &c.—(Art. 5, sec. 5.)

If it was intended that the special taxes mentioned in sections 4 and 5 were to be restricted by the equation established in section 1,—then we must believe that the Convention either greatly overestimated the sources of taxation, or was not honest in its solemn pledge, "To maintain the honor and good faith of the State untarnished," and was so unwise as not to provide for emergencies which might arise in the administration of the government. I am not disposed by a narrow construction of Article 5 of the Constitution to cast such imputations upon the framers of our government. I cannot believe that the Convention intended to make the very existence of the government dependent upon a certain equation of taxation.

The power of the Commissioners of counties to levy taxes is limited and regulated by Art. 5, Sec. 7, and Art. 7, Sec. 7, as follows:

1st. County taxes shall be levied in the same manner as State taxes.

2nd. Such taxes shall never exceed double of the State taxes, except for a special purpose.

3rd. Taxes for a special purpose must have the special approval of the General Assembly.

4th. If this special purpose is for necessary expenses and is approved of by the General Assembly, then the extent of the necessity is the only limit to the tax.

5th. No debts, &c., can be incurred by a county, except for necessary expenses, unless by a vote of the people.

6th. Necessary expenses are such as are incurred by the Commissioners in the general supervision and control of county affairs, as specified in Art. 7, Sec. 2.

The wisdom of the policy of placing restrictions upon the representatives of the people as to the subject of taxation has been greatly doubted by the wisest statesmen.—It is not my purpose to question the policy, but to construe the instrument which contains it. The consideration of the great interests of the State, as connected with a liberal and enlightened system of internal improvements, belongs not to the judicial forum. Judges must construe the law as it is written.

I concur in the opinion that the proceedings in this case must be dismissed.

DICK, J.

TELEGRAPHIC.

WASHINGTON.

WASHINGTON, July 21.—Customs to-day nearly half a million.

Mr. Wade says the Virginia result will affect unfavorably the Northern elections.

Secretary Robeson with a party aboard the "Tallapoosa," will inspect the Navy Yards along the Atlantic coast.

All the Cabinet is absent except Hoar, Boutwell and Cox.

Murderess Minnie Gaines has been sent to the Insane Asylum by order of the Secretary of the Interior.

George Peabody and Mr. Corcoran will visit the White Sulphur Springs to-morrow.

The Revenue Department decides that smoking tobacco can't be retailed from pound packages unless packed in wooden boxes and stamped.

The *Inquirer* of Philadelphia says recently a bark left Baltimore with twenty four thousand stand of arms and one hundred and seventy thousand rounds of ammunition for Cuba. She got off without trouble, professing to be loaded with hay, and reached her destination successfully.

It is understood another vessel is likely to sail soon for the same port similarly freighted.

The Boston Post Office will be built of granite.

Efforts are being made for the removal of Gen. Gordon Adams, Attorney for Mississippi. It is understood that Commander Ames desires the removal. The charges against Adams are political.

VIRGINIA.

RICHMOND, July 21.—The official returns show that the vote for Walker falls twenty six thousand short of white registration, and that for Wells eighteen thousand short of the colored registration. The objectionable clauses in the Constitution were defeated by forty thousand. There appears to have been an entire new dealing in politics, as only six members of the elected Legislature have ever been here before.

Thos. R. Bowden, State Attorney General, resigned to-day.

FOREIGN.

MADRID, July 21.—The French government has ordered all conspirators from the frontier. A deep plot for the assassination of Serrano, Prim and Rivera has been discovered here.

A short fight occurred at Huedad Real between the civil authorities and a band of insurrectionists. Nine insurrectionists and several soldiers wounded, when the insurrectionists retreated. The leaders escaped.

LONDON, July 21.—In the House of Commons last night, the Lord Mayor of Dublin, in full robes, presented a petition at the bar of the House praying persistence in efforts to secure religious equality in Ireland.

HAVANA, July 21.—Sixty Spanish troops had a sharp engagement with Cubans near Mangamilla, twenty Cubans killed and twelve captured. Spanish loss not given.

WASHINGTON.

WASHINGTON, July 21.—Senator Morton favors the recognition of the Cubans as belligerents.

Gen. Ames, commanding Mississippi, has been called to Long Branch by President Grant.

The Cuban Colonels, Ryans and Courrier, are safe in Canada.

Six of the Minnie Gaines Jurors have signed their verdict by cross marks.

FROM SAN FRANCISCO.

SAN FRANCISCO, July 22.—The Avitor has made another successful trial trip. Several engineers believe that the large machine now constructing will be successful.

The Republicans have elected their Delegate to Congress by one hundred and forty-eight majority.

FOREIGN.

LONDON, July 22.—After prolonged debate in the House of Lords, nearly every member explaining himself, the House divided on the preamble to the Church bill as it came from the Commons. The government was defeated by 78 votes—95 to 173. The issue is finally joined between the Lords and the country, and political excitement, in consequence, is intense.

The Cabinet was in session all the afternoon yesterday but lacks harmony; Gladstone, Bright, Lowe and all the stronger members insist upon an immediate withdrawal of the bill, on the grounds that the obstinate resistance of the Peers will render a conflict between the two Houses inevitable. Some members, including Clarendon, advocate more moderate proceedings, such as letting the bill take its course and only abandoning it at the last moment; but, insulting language used by the Earl of Salisbury towards Gladstone, and the large vote against the preamble, show that any attempt at compromise will be useless.

There is little doubt that Gladstone will carry his point by withdrawing the Bill, immediately followed by a speedy adjournment to August, by which time there will be a creation of a new batch of Peers, by the Queen, which will give the ministerial party a majority in the House of Lords.

Placards appear on walls, headed "shall the people or the Lords rule?" Calling a mass meeting at Arundel Hall to-morrow, to be followed by a monster open air demonstration.

It is rumored that the Duke of Cambridge expresses, openly, his indignation at the Radical tem of the ministry, and hopes the Queen will refuse here sanction to the coercion of the Peers.

HAVANA, July 22, M.—Manzanillo merchants have been arrested for dealing with rebels.

The loyal Cubans of Santa Esperitu have issued an address urging their rebel brethren to return to their allegiance.

The insurgents, eight hundred strong, have been defeated with heavy loss; General Jordan wounded.

WASHINGTON.

WASHINGTON, July 22.—Revenue to-day $745,-000.

Admiral Davis is detached from the South Atlantic squadron.

Customs from the 10th to the 17th inclusive, $3,160,000.

The decrease of the debt will probably be $9,-000,000 for the present month.

Commissioner Parker has advices convincing him of the danger of extending Indian troubles before the summer is over. The Indians have formed new combinations.

Prominent radicals here are hopeless of the success of Stokes in Tennessee.

The Revenue Department attributes the success in discovering illicit distilleries to negro spies and guides.

It is understood that the steamer "Seminole," which left Norfolk on the 11th, under sealed orders, is directed to capture and bring to Washington the Haytien privateer "Hero" for molesting American shipping.

Secretary Hoar is reported to have said to a delegation urging interference in behalf of certain Americans incarcerated in Ireland for Fenianism, that the men had no business in Ireland. He believed the invasion of Canada was the act of a set of robbers and murderers who deserved severe punishment, and declared that our government was determined to have the laws faithfully and vigorously executed.

FROM NEW YORK.

NEW YORK, July 22.—Frank Ballard, Secretary of the Security Insurance Company, is a defaulter to the amount of $50,000.

John A. Roebling, well known bridge engineer, died of lock-jaw to-day, from a jammed foot.

R. D. Bogart, the defaulting naval paymaster, has arrived from Galveston in custody.

Cuban patriots at Fort Lafayette are to be released to-morrow.

Daniel Kelly killed his father yesterday.

Papers are silent regarding Canby's policy imposing the iron-clad oath to Virginia legislators.

The *Tribune* says, editorially, "The President, we need hardly state, has had no part or lot in the proposed nomination of his relative, Judge Dent, for Governor of Mississippi. Whether Judge Dent is a conservative Republican, a Radical, or no Republican at all, makes no shadow of difference. The President has taken no part in the election of Governors by the people of the respective States and is very unlikely to take any."

MISSISSIPPI.

JACKSON, July 21.—The trial of E. M. Yerger, before the Military Commission, was concluded to-day. The verdict is not known. After the trial was concluded Yerger was brought before Judge Hill, of the United States Criminal Court, on a writ of *habeas corpus*. Judge William Yerger in behalf of the prisoner, submitted a plea to which the Judge Advocate, Col. Thomas F. Barr, submitted a return, and Yerger was remanded to military custody. The points involved having heretofore been passed upon by Judge Hill with the same result, the case will float be heard from in the Supreme Court.

The Dent movement is supported by the press of the State, and he will receive the support of conservatives of all parties.

VIRGINIA.

WHITE SULPHUR SPRINGS, West Va., July 22.—Four hundred arrivals here to-day. Among them are George Peabody, W. A. Corcoran, Gen. Geo. E. Pickett and others. Blankets and overcoats are in demand. Thermometer at noon 67.

ALEXANDRIA, July 22.—Commodore S. S. Lee, brother of Gen. R. E. Lee, died at his home in Stafford County to-day.

GEORGIA.

MACON, July 22.—Postmaster Turner was discharged by the U. S. Commissioner this morning at 10 o'clock.

CALIFORNIA.

SAN FRANCISCO, July 22.—A steamer from Japan has arrived. The steamship "Tallahasse," formerly a Confederate cruiser, is totally wrecked near Yokohama. Twenty-two lives lost, including the captain, crew and most of the passengers.

The Prussian trade is unparalleled in the history of Japan.

No arrival of new silk. The cold weather has destroyed many worms.

FOREIGN.

PARIS, July 22.—Official papers say Victor Duruy and Adolphe Vintry have been appointed senators.

HAVANA, July 22.—Haytien advices to the 14th report that the "Quaker City" alias "Columbia" is at St. Marc's.

Salnave is personally superintending operations against Aux-cayes. His friends are confident of success. Cocas however, is determined to defend the place to the last extremity.

MADRID, July 22.—The report that Don Carlos is in the Province of Navarre, is confirmed. The Government is taking great precautions.

LONDON, July 22.—A colliery explosion at St. Helena, a few miles from Liverpool, killed thirty and hurt sixty.

FROM WASHINGTON.

WASHINGTON, July 23.—It is more than suspected that Delano will shortly remove some revenue supervisors.

The "Arizona" brings only $5,000 in treasury.

Three Paraguayans who attempted to assassinate the Commander of the allied army have been shot.

Paraguayans who attempted to board the Brazilian Iron Clad were all killed.

The Allies are endeavoring to drive Lopez into Bolivia.

NEW YORK.

NEW YORK, July 23.—The *Herald's* special from London says the compromise was the result of fear on the part of the Lords. The tory Lords held a large private meeting and resolved to abandon Lord Salisbury and follow Cairnes, upon meeting they authorized him to make peace with the Ministry. The prompt and loud expressions of popular indignation terrified the Lords, and thus the threatened agitation was postponed.

FROM BOSTON.

BOSTON, July 23, M.—The steamer, with the French Cable, was signalled from Cape Cod, at sunrise this morning, and will reach her destination this afternoon.

FOREIGN.

LONDON, July 23.—There was a full attendance in the House of Lords last night. Many of the Commons were present. Lord Granville opened the debate, stating that the Ministers regarded the vote rejecting the preamble to the Irish Church Bill a grave affair, but they were unwilling to prevent the consideration of other amendments, and were anxious to conduct the discussion in a peaceful and conciliatory spirit.

Lord Cairnes said that since the adjournment he had a conference with Lord Granville, and he now moved to restore the original date of the disestablishment Bill, and compromise on other amendments.

Lords Salisbury, Russell and other leading Peers accepted the compromise and praised the conduct of Lord Cairnes in the emergency.

The House of Lords restored the original date and other amendments were compromised.

Lord Granville thanked Lord Cairnes for the frankness with which he entered into confidential relations with the ministry.

PARIS, July 23, M.—Bullion in the bank has increased 7,000,000 francs.

Visitors to Atlanta City make fiddling crabs tipsy, and then amuse themselves by watching their antics. A piece of bread soaked in whiskey and water attracts them in myriads from their burrows.

Obituary.

Died, in Concord, N. C., on the evening of the 20th inst., after a protracted and painful illness, Dr. K. P. HARRIS Sr., one of our oldest and most highly respected citizen.

A large and bereaved circle of relatives remain to mourn his loss. He was a fond husband, a kind and affectionate father, and cherished charity for all. None knew him but to praise his generous character, gentle disposition, Christian spirit and patience in suffering; but—he is gone.

> "Sure the last end
> Of the good man is peace. How calm his exit!
> His pi'grim spirit seemed to breathe a silent farewell to those that watched in solemn quiet, and then winged its flight to the God who gave it.

B.

Died, in Chatham County, N. C., on the 18th day of July 1869, Mrs MARTHA DOLLAR, consort of Jesse Dollar, aged 38 years.

Seldom indeed are we called upon to chronicle the death of one who so plainly manifested, in all the varied walks of life, the comforts of religion in life and death. She feared no evil, but coolly and calmly fell asleep in the arms of Jesus. As a wife, she was devoted and true; as a mother kind and affectionate; as a neighbor, warm and generous; as a Christian, consistent and punctual in the performance of her religious duties. Long will her memory be revered by the many who have been the recipients of her kindness. But alas! she is gone—forever gone—to bask in the full fruition of God's ineffable glory, and flourish in immortal youth and vigor. No more shall we see her on earth; no more hear the warm and generous hand; no more hear the sweet accents of her voice around the hearthstone, conversing about religion, and the happiness that awaits God's people beyond the grave. She died as the good alone can die. She received the summons from labor below to refreshment above with resignation, and not with tears. She met death only as a kind messenger, sent to guide her weary feet to mansions of everlasting bliss. She affectionately called her husband to her side and told him that she must leave him, and requested him not to grieve for her, that she was going home to Heaven, where there would be no more suffering or parting with loved and dear ones. One by one she then called her children, advising them to be good children, to shun evil company and to try and meet her in Heaven. [illegible] as she lived, a Christian, and is now [illegible] the reward of a life well spent. May the God of Heaven bless her surviving family and friends.

AMICUS.