The Sentinel.

CONVENTION.

Election First Thursday in August.

JOSIAH TURNER, Jr., Editor.
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SATURDAY, JUNE 3, 1871

CONVENTION.

This is to the people of the state a question of grave importance; to the taxpayers it is one of the greatest magnitude.

The chief justice says the legislature without a two-thirds vote of the senate and house cannot call a convention. The governor says so. In this opinion all the judges concur. Mr. Moore, Gov. Bragg and Gov. Graham all say so. The constitution says so. That should end the discussion. No man should say to the contrary. Is there any other way of calling a convention except by a two-thirds vote of the legislature?

The people are not fond of conventions called by the legislature, and they say it shall not be done by that body unless two-thirds of each house concur. Did the people at the coming of the carpet baggers surrender to Cuffy Mayo, James Harris, John Richard Shoffner, and such men as once composed the legislature of North Carolina, their power of calling a convention to alter their organic law? Is such a power safer in such hands than in the hands of the people? Since the formation of our constitution, in 1776, at Halifax, we have had six several conventions to alter the constitution; three of the six was called by the legislature, and that was the convention of May, 1861. The failure of the convention of 1861 was such as to give the people no fondness or taste for conventions called by two-thirds of the legislature. In the house there was not a single vote against the convention bill of 1861; in the senate there were only three—Worth, Sharpe and Turner.

We might say the people know but one way of altering their constitution, and that is the slow, sure way of first consulting with each other and interchanging opinions at the polls as to whether they desire it or not. When that is determined, Jim Harris, Cuffy Mayo, Caldwell, and Pearson may cease their pother.

Will the enemies and opponents of convention tell us when, where, and how the people lost their right and power of calling a convention, after having exercised it on five several occasions? The common, the ancient, the modern, and we might say the only mode of calling a convention in North Carolina is and has been by a vote of the people at the polls.

We should lose our patience to argue with the people from now until August that two and two make four. They would come to the conclusion that we or they were fools. That the people can call a convention when they have done so repeatedly, is as plain as that two and two make four.

The mistake of Caldwell, Pearson, and those who argue against convention is this: they assume that the *legislature* has called a convention. This is false. If the legislature has called a convention why don't it meet and relieve the people?

But we have lost our patience discussing the question, and we give the balance of our space to a patient, philosophical statesman who has made the question so clear that inspiration itself could hardly make it clearer. We copy from the speech of Hon. W. A. Graham, delivered in the Senate of North Carolina, Dec. 12, 1854. The senate having under consideration Mr. Boyd's bill to amend the constitution by legislative enactment, Mr. Graham moved to amend by striking out and inserting a bill, introduced by himself, concerning a convention of the state, and said:

If, sir, there is anything I have endeavored to understand, it is the frame of government under which we live; and if there be anything, I would desire to avoid, it is knowingly to violate any of its provisions. This amendment has not been proposed, without an examination of the constitutional question. The objection I shall endeavor to meet fairly. It is not new to me; I met it in the legislature in 1854, from the opponents of the convention, which assembled in 1835. When that convention met, very loose ideas prevailed in regard to the authority which called it—whether it was the people or the legislature, and, if the legislature, whether it could bind the delegates to take the prescribed oath. You will remember, that they were required to swear "not to evade or disregard the duties enjoined, or limits fixed to this convention," and as, among these duties, was a requirement to strip the counties of the political power, which they before had, of electing one senator and two members of the other house, without regard to population or taxation, and fix a certain number of members in each house, and apportion them on the present basis, there was a reluctance among some members to take the oath, and a disposition to act as if clothed with general powers to consider and propose amendments to the constitution. When we learn, as we do from the remarks of the Hon. Jesse Speight, at page 123, of the debates of the convention, that thirty-nine counties gave majorities against calling the convention, and only twenty-six counties cast majorities in favor of it, although it was carried by a large majority of the people of the state, we see, as it is expressed by Mr. Gaston, in the debates, that a large number of members (there being two members, and only two, for every county,) came to their work "grudgingly" and with an inclination, if not convinced that such a step was wrong, not to take the oath, but to claim the powers of a general convention. A distinguished gentleman (Mr. Wilson) from the county of Edgecombe, now no more, opened the discussion by stating his doubts in regard to taking the oath, and the power of the legislature to impose it, that, (in his opinion,) if taken, it would bind members to make changes in the constitution, of which they might not be in favor, &c. This led to a debate, in which Mr. Gaston stated his views of the nature of the convention, and of the power by which it was called into existence. A man of whom, permit me to say, more than he has gone down below the horizon, that the light of his luminous mind and pure and elevated character still shines back upon us from the South, and, in hours of doubt and difficulty, will long continue to guide us in the paths of safety and truth. He asserted the very theory on which I now proceed, though that the legislature had not called that convention. It had but proposed it to the people. The people had adopted the proposition by their votes, and called the convention themselves, and had prescribed certain objects and limits, and imposed an oath for their observance. Hear his own clear and forcible language:

"The State Legislature had indeed no authority to impose an oath upon the members of the convention, but the people had ratified the act of the legislature by electing delegates under it. According to the theory of our Government, all political power was derived from the people, and when they chose to make a grant of power, they might make a plenary or restricted grant, might exercise all or in part. The Legislature, by the act proposed to the people a convention with the powers, restrictions and limitations set forth in the act. It was, as it came from the legislature, no more than a proposition or recommendation. It must originate somewhere, and with no body could it have originated with so much propriety as in that which represented the people for legislative purposes. The proposition having been sanctioned, it became the act of the people, but it has [illegible] conditioned precisely as it [illegible] depart[illegible] are distinct, must be regarded as our [illegible] attorney. If we transcend the limits or refuse obedience to the conditions therein provided, we are not the convention called by the people, but a self-constituted body, &c."

This statement of principles, so lucid and just, settled the question that that convention was called by the people, and was limited and restricted by them and that the Legislature had only proposed the convention to the people upon a certain basis, and had done nothing more. The convention, with a few dissenting votes, organized and acted accordingly. And in the preamble to the amended constitution, the convention sets forth, that "whereas the general assembly had enacted, that polls should be opened to ascertain whether it was the will of the freemen [illegible] convention to consider of certain amendments proposed by the [illegible] majority of all the votes polled by the freemen of North Carolina should be in favor of such convention, the governor should, by proclamation, announce the fact, and, thereupon, the freemen aforesaid should elect delegates, &c., and whereas a *majority of the freemen of North Carolina did by their votes at the polls so speak, declare their will* that a convention should be had, to consider, &c., and the governor did by proclamation announce the fact that their will had been so declared, and an election of delegates was accordingly held. Now, therefore, we, the delegates of the good people, &c., submit to the determination of the qualified voters of the state the following amendments, &c." Thus showing that they considered their power derived from the will of the freemen of the state, expressed by their votes at the polls. It is then established beyond controversy, that that was a constitutional and legitimate mode of originating a convention, and that it was then acted upon.

But I am told that it is now prohibited by a clause in the amendments of 1835, in these words: "No convention of the people shall be called by the general assembly, unless by the concurrence of two-thirds of all the members of each house of the general assembly." Let me admit it. It is a prohibition upon whom? The general assembly, unless two-thirds concur. Against doing what? Calling a convention. Exercising their authoritative power to bring into existence a body with power over the constitution. For it is manifestly not decided that if majorities of two-thirds do concur, they may direct a convention to be elected and assembled, with full power to amend the whole constitution and substitute another in its stead, without consulting the people at first, or submitting it to them at last. The legislature evidently has no power to limit a convention, or require it to submit its work to the people. Against a convention with such powers, and such irresponsibility, this provision was intended to guard. But upon that safe and tried method of a *proposition* by the legislature to the people, and a call by the people themselves, it has no operation. Restraining and disabling provisions upon the power of the people are to be strictly construed. They had the right to call a convention, and the legislature had the power to provide them the means for the exercise of that right in 1835, as we have seen. Does a prohibition on the legislature against calling a convention itself take away either this right of the people, or the power of the legislature to provide for its exercise?

I am corroborated in this view by what occurred in the convention. First, a committee reported a mode of amending the constitution by what is called the legislative method. Taking it for granted that that did not exclude the power to resort to conventions as another mode of amending, Mr. Mearns, of Sampson, proposed an article "so that no convention of the people should hereafter be called, except by the concurrent vote of two-thirds of each house of the general assembly." Deb. Con. 869. Did this pass? If it had, I should have surrendered the question. But Mr. Giles, of Rowan, and others remonstrated; and after debate, Mr. Mearns modified "his amendment so as to provide that no convention shall hereafter be called *by the general assembly*, except by [illegible] of the tariff and [illegible] and the abolition of the income tax; opposing the importation of Coolies, and recognizing "the provisions of the constitution as they now exist."

SUPREME COURT.—On Monday, the June term of this court will commence, and during the week cases from the 1st and 2nd districts will be taken up in the following order:

Jos. G. Cranberry vs. Joshua Newby *et al.*

Stephen W. Brittain vs. W. R. Miller *et al.*

F. E. Winslow vs. Henry White, sheriff.

Louisa Eason, administratrix, vs. Jos. R. Billings, administrator, *et al.*

Town of Edenton vs. Jacob Wood *et al.*

John Johnson vs. J. F. Cross, administrator.

R. G. Cowper, administrator vs. W. A. Moore.

William Vaughan vs. E. A. Martin, administrator.

State of North Carolina vs. Miles Bayley.

State of North Carolina vs. Jos. Lamb.

James M. Blackwell *et al.* vs. W. H. Willard *et al.*

Isaac Street vs. Blount Bryan.

State of North Carolina vs. Ruthy Williams.

Brown, Daniel & Co. vs. P. B. Hawkins.

[illegible] tion, in Wake county. Another, which met at Fayetteville, in November, 1789, again to consider the Federal Constitution and the expediency of allowing the town of Fayetteville a member of the General Assembly. It adopted the constitution of the United States, and allowed a member to the town of Fayetteville. Both of these conventions were called by the general assembly. Both made changes in the constitution, the last a most important change, by adding North Carolina to the Union of states, and giving a new representative in the Legislature to a borough town, and neither ever submitted its work to the people for ratification. Now, as the convention of 1835 is not only proved to have been, but from the character of the men who composed it, it did know the political history of the state, and their language is to be interpreted with reference to it. They knew that two conventions had been called by the General Assembly, of 1788 and 1789, and that that in which they were in 1835 was called by the people. Where there were two, they had their substitution upon the General Assembly not to call any more conventions, with power to bind the people, as had been done in 1788-9; they are not to be understood as applying this inhibition to the right of the people themselves, or to the Legislature against acting upon it in exercise. The narrow maxims derived from the common law, a system designed to prescribe rules of action to individuals, such as that we cannot and others to do what we are forbidden to do ourselves, have no application to the great departments of government. The Legislature, the most important of these departments, is forbidden to do many things itself, which it is its bounden duty to pro[illegible] from certain proceedings, in the State of Rhode Island. In 1842, a portion of the people of that State, undertook to change the constitution, against the wishes of the Legislature and the other departments of Government. They proceeded by public town or county meetings, elected delegates, formed a constitution, professed to have elected a Mr Dorr governor under it, and claimed to supersede the officers under the old constitution. Civil war ensued. Dorr was put to route, as he deserved to be, and took refuge elsewhere. But one of his followers, being arrested by the authorities of the old Government, brought a suit for trespass and false imprisonment, on the ground that the Dorr constitution was in force. The State officers justified under the authority of the [illegible] carried to the Supreme Court of the United States. The report of it is lengthy and tedious. The question of which constitution was in force, a political one, as presented by the pleadings for their decision. But Mr. Webster was the counsel of the old Government, a states-man and jurist, as renowned for the conservation of his sentiments, as for the depth, the force, and range of his thoughts and information. He treated the whole subject elaborately. And while he justified the authorities, he puts the condemnation upon the ground that he acted against the authority of the existing Government, and every where admits he had no implication, that if Dorr's proceedings had had the sanction of the Government, an act of the Legislature, for example, providing for the determination of the question of convention and the choice of delegates, they would have been legitimate and constitutional.

Sir, before taking leave of this argument, let me direct your attention again to a constitutional reservation of power to the people, which should not be overlooked in the consideration of the question. In the Bill of Rights, which is part of the same constitution which contains the inhibition I have quoted at length, there is this declaration: "That the people of the State ought to have the sole and exclusive right of regulating the internal government and police thereof. This seems a right. But how shall it be exercised. The people cannot proceed in the exercise by making changes in the constitution of Government without the application of the existing government. This would be to commit the mistake of Dorr. But if such is their right, is it not within the power of the Legislature, and is it not its duty, when an emergency has arisen requiring the exercise to provide the means for their exercise? It not, then they have an abstract right, but there is no means of asserting it in practice.

I trust that the authority of the Legislature to adopt the provisions of this amendment, and the right of the people to call a convention, are now vindicated.

MR. CONGLAND'S POSITION.—The statement of the *Old North State* in regard to the position of Mr. Congland on the convention question has been used to place that gentleman in hostility to the measure. Mr. Congland has set that matter right, as will be seen by his card in to-day's paper. He is for convention.

The name of Hon. W. N. H. Smith also has been misused in this connection. We have reason to believe Mr. Smith favors the call of a convention, and would vote for it were he now a resident of our state. We would be pleased to hear from Mr. Smith on the subject.

DEMOCRACY IN PENNSYLVANIA.—The Democratic State Convention, in session at Harrisburg, Pa. on Wednesday, adopted resolutions declaring for the submission to the people next October of the question of a State Constitutional Convention, endorsing the speech of Senator Schurz at St. Louis; denouncing the force bills passed by Congress, favoring the reduction of the rate of interest on the public debt, a revision of the tariff and tax laws, and the abolition of the income tax; opposing the importation of Coolies, and recognizing "the provisions of the constitution as they now exist."

CONSERVATIVE MEETING IN RUTHERFORD.

In accordance with previous notice the Conservatives of Rutherford county met at the court house in Rutherfordton on the 29th ult. to organize for the ensuing campaign. All parts of the county were represented. On motion of Col. A. W. Tarrson, D. Lawson A. Mills was called to the chair and Capt. R. A. Shoffner appointed secretary. Hon. G. M. Whitesides, in request of a gentleman, stated the object of the meeting. On motion the chair named Messrs. A. W. Tarrson, Capt. Jas. Anderson, G. M. Whitesides, Wm. Harris and Col. J. L. Mason, a committee to draft resolutions, and report plan of organization. During the absence of the committee Dr. Mills took the floor in advocacy of a convention, which he claimed was the only remedy left to relieve the state from her present and deplorable condition, and secure an economical and efficient form of government. Mr. W. H. Justice expressed himself in favor of the present constitution and argued ably in favor of a return to the ancient landmarks. R. A. Shoffner responded to the call of the house with a few remarks showing that our present political and judicial system is unsuited to the genius of our people, and urged its abolishment. The committee on resolutions reported:

1st. That it is the sense of this meeting that a convention should be held in Rutherfordton on the 3d Monday in June next, to nominate a candidate to represent the county in the convention proposed to be held to amend our state constitution.

2nd. That the citizens of the several townships in favor of a convention to change the present constitution of the state, be requested to hold meetings on or before the 1st Saturday in the 3d Monday in June and nominate a candidate, as provided for in resolution 1st.

3d. That as a party the Conservatives of Rutherford county are in no way responsible for the alleged lawlessness and outrages, committed by KuKlux, so called, nor any other organization, and we condemn all outrages and lawlessness, by whomsoever committed and that we hold ourselves ready to assist the lawful authorities in putting a stop to such alleged outrages, and in bringing the offenders to punishment.

W. D. Justice argued in support of the resolution, especially the latter, which he contended was a proper vindication of the party from charges which had been made by the opposition. The resolutions were unanimously adopted.

R. A. Shoffner suggested that the chair appoint a committee of three to prepare a concise account of the actual state of affairs in Rutherford county, showing the condition of the public finances, the [illegible] for fame of the county from the settlement of the radical party, and the misrepresentations of our county and people. Rev. T. B. Justice, Maj. C. P. Lewis and Jas. L. Carson, Esq., were appointed such committee.

On motion of Capt. W. C. Duffy, a committee was appointed to investigate the condition of the county finances, and report at next meeting. The chair named Capt. Twitty, M. H. Justice and G. W. Whitesides.

On motion, the Western Democrat and Raleigh Sentinel were requested to publish the proceedings of this meeting.

Hon. G. M. Whitesides was then invited to address the audience on the issues of the day, and responded in a clear and argumentative manner, showing the necessity for the convention, the evils which must result if it is not held, that there were no constitutional difficulties in the way of its being held, and appealing to the people not to be deterred from it by fear. The meeting finally adjourned, with night on their side.

L. A. MILLS, Chairman.
R. A. SHOFFNER, Secy.

[illegible]

CONVENTION IN CHATHAM COUNTY.

The good, sterling and patriotic citizens of Chatham, in pursuance to previous action, assembled in convention in the court house at Pittsboro' on the 3rd day of May, 1871, for the purpose of nominating candidates and delegates to represent them in the proposed convention to alter or amend our present constitution.

On motion of Dr. A. M. Ryan, Wm. Long, Esq., was elected chairman, who, on call, briefly stated the objects of the meeting.

On motion, Messrs. M. W. North and Z. T. Dickey were elected secretaries.

On motion of W. R. Rowe, Esq., the chairman proceeded to call the roll of the several townships to ascertain who were delegates, and to take the sense of the meeting in regard to the most practicable and convenient method of selecting the candidates.

On motion of Hon. Giles Mebane, it was resolved that the gentlemen present from any township in which there have been no primary meetings held or delegates appointed, represent their respective townships as delegates in this convention, and that the delegates from the several townships retire separately and fix upon their nominees and report, and that each township should be entitled to one vote in convention. The delegates of each of the several townships retired, and after conference, reported through their respective chairmen, their respective favorites, which resulted, *upon first ballot*, in the election of Hon. Giles Mebane and Hon. Jno. Kerr, who tendered their grateful acknowledgments to the people for their kind consideration, and pledged themselves to discharge faithfully and honestly the duties of the high trust and confidence reposed in them as delegates.

Upon motion, the said gentlemen were declared the unanimous choice of the convention.

Mr. Hodnett then introduced some resolutions which he retains, instructing our delegates to urge the incorporation of the homestead law in the new constitution as it is now in our present constitution, and also a prohibition upon the supreme court judges from declaring it unconstitutional in all time to come.

The resolutions were voted down, not because of the homestead provision, which the delegates will support, but on account of the clause absurdly attempting to fetter the judges in their judicial functions. The convention was entertained by speeches from Hon. S. P. Hill, Col. R. E. Withers, Col. Geo. Williamson and others in urging the necessity of firm and decided action, unanimity, harmony and prevention of disorder of any kind calculated to give our political opponents any capital.

Upon motion, the following resolutions were read and adopted:

Resolved, That we regard the right of the people to call a convention to alter their constitution of government, as a most sacred and inalienable right of intimable value to them and formidable to tyrants only.

Resolved, That we approve of the action of the general assembly of the state, in making provisions as they have done, for a call of convention, and we hereby pledge ourselves to use all fair means to carry the measure through at the ballot box, and to secure the election of the gentlemen now nominated to represent Caswell in the convention.

Resolved, That a copy of these proceedings be sent to the SENTINEL and Hillsboro' *Recorder* with the request that they will publish the same.

Upon motion, the convention adjourned.

WM. LONG, *Chairman*.
M. W. NORTHCUTT, Z. T. DICKEY, *Secretaries*.

Hillsboro' *Recorder* copy.

From the Old North State.

CONGLAND FOR CONVENTION.

HILLSBORO', N. C., May 29, 1871.

S. Lewis Hasse:

DEAR SIR: In a recent number of your paper, you refer to myself, among others, as hoping the opinion that the Convention question ought to have been made, although it was intended by you, that I was opposed to the call of a convention by the people.

During the pendency of the bill before the Legislature, it became the subject of general conversation in Raleigh, and I then gave my views, not from a desire to obtrude them, but in compliance with the request of several of my friends. You will recollect that, in my opinion, the passage of the bill by a mere majority, would be unconstitutional. But, under circumstances, we have since seen, I think, good reason for a return to the ancient landmarks. R. A. Shoffner responded to the call of the house with a few remarks showing that our present political and judicial system is unsuited to the genius of our people, and urged its abolishment. The committee on resolutions reported:

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HENRY T. HELMBOLD'S
COMPOUND FLUID
Extract Catawba
GRAPE PILLS.
Compound Fluid Extract Rhubarb and Fluid Extract Colocynth Grape Pills.
FOR LIVER COMPLAINTS, JAUNDICE, BILIOUS ATTACKS, SICK OR NERVOUS HEADACHE, CONSTIPATION, PURELY VEGETABLE, CONTAINING NO MERCURY, MINERALS OR DELETERIOUS DRUGS.
II
These Pills are the most delightfully pleasant and powerful cathartic yet offered to the public. They are a mild but sure cure, and adapted to the stomach. They give tone, and cause no griping pain. They are compounded on the Vegetable Kingdom. After a few trials of them, such an testimonial of the entire system takes place as to recommend them to the weak and enervated. H. T. Helmbold's Compound Fluid Extract Sarsaparilla Pills are not sugar coated, from the fact that sugar coated Pills do not dissolve, but pass through the stomach without dissolving, consequently do not produce the desired effect. THE CATAWBA GRAPE PILLS, effect. THE CATAWBA GRAPE PILLS, being pleasant to taste and odor, do not nauseate, and can be taken by the most delicate. PRICE FIFTY CENTS PER BOX.
E
HENRY T. HELMBOLD'S
HIGHLY CONCENTRATED COMPOUND
FLUID EXTRACT SARSAPARILLIA
Will radically exterminate from the system Scrofula, Syphilis, Gonorrhœa, Gleet, Tumors, Cancerous Affections, Nodes, Rickets, Glandular Swellings, Night Sweats, Rash, Tetter, Humors of all Kinds, Chronic Rheumatism, Dyspepsia, and all diseases that have been established in the system for years.
L
Being prepared expressly for the above complaints the fluid purifying properties are so concentrated, that a teaspoonful of Sarsaparilla H. T. Helmbold's Fluid Extract Sarsaparilla H. T. Helmbold's Fluid Extract Sarsaparilla
M
FLUID EXTRACT BUCHU,
THE GREAT DIURETIC
has cured every case of diabetes in which it has been given. Irritation of the neck of the bladder and inflammation of the kidneys, obstruction of the kidneys and bladder, retention of urine, diseases of the prostate gland, stone in the bladder, gravel, brick dust deposit, and all diseases of the urinary passages, whether existing in the constitution, or in the form of a concomitant, complication, or consequence of other diseases, such as Diseases of the Skin, Eruptions, Pimples, Blotches, Boils, Tumors, Tetter, Scaly Eruptions, Scurvy, Itch, Mercurial Disease, Mercurial Eruptions, Salivation, Pain in the Bones, Ulcers in the Mouth, Throat, Nose and Legs, Venereal Affections, Syphilis, Gonorrhœa, Gleet, Strictures, Leucorrhœa, Ulceration of the Vagina, Prostration, Nervous Irritability, Hysteria, Fits, Sleeplessness, Nervous Weakness, Dyspepsia, Loss of Appetite, Loss of Flesh, Pain in the Back, Lassitude, Dullness, Loss of Memory, Difficulty of Breathing, Palpitation of the Heart, Horror of Disease, Wakefulness, Dimness of Vision, Pain in the Back, Head, Hands, Feet, Flushing of the Body, Eruptions of the Skin, Coldness of the Feet, Cold Sweats, Nervous Irritability, Nervous Prostration, Nervous Tremblings, Hot Flashes, Dry Skin, Sleeplessness, Dullness, Loss of Memory, Difficulty of Breathing, Wakefulness, Horror of Disease, Wakefulness, Dimness of Vision, Pain in the Back, Head, Hands, Feet, Flushing of the Body, Eruptions of the Skin, Coldness of the Feet, Cold Sweats, Nervous Irritability, Nervous Prostration, Nervous Tremblings, Hot Flashes, Dry Skin, Sleeplessness, Dullness, Loss of Memory, Difficulty of Breathing, Palpitation of the Heart