The Sentinel.

JOSIAH TURNER, Jr., Editor.
JOHN SPELMAN, Associate & Local Editor.

TUESDAY, MARCH 28, 1871.

JUDGE WARREN'S SPEECH.—We yield a large portion of our space to-day to the able argument of Judge Warren, on the arbitrary conduct of Gov. Caldwell in regard to the Convention act. We invite attention to this speech.

THE RESPONSIBILITY.

Most persons think that the responsibility of having defeated the convention is to rest entirely with Gov. Caldwell and the few negroes and scalawags of the legislature. The people may not take that view of the subject after reading the address signed by a sufficient number of Senators and members of the House to have passed the bill. The right asserted by Gov. Caldwell to set up his opinion against the proper execution of the law is a usurpation on his part which cannot be defended or tolerated by a people fit to be free. To admit this right on his part, is to invite social disorder, confusion and a dissolution of all government and law.

These disorders must follow when the principles of Caldwell are carried out to their full extent. We have been taught in our notions of free government that only the judicial tribunals of the country could pronounce upon the constitutionality of legislative enactments. It is not in the power of the Governor, any more than it is in the power of any other individual, to pass upon the constitutionality of a law. He is bound to obey it, he is not at liberty to "feel or affect constitutional scruples." When a law has received legislative sanction it can be questioned only in court, upon a question properly raised, and then and only then adjudicated. The Governor can no more contest or decide upon the validity of a legislative act, than Friday Jones, Willie D. Jones or any other member of the Republican party.

Gov. Caldwell may and he has refused to obey the law. More than that, he has made himself sole judge of the validity of the law. It has come to this and nothing less: the validity of any act of the Legislature depends upon the opinion which one man may form of its utility, necessity or constitutionality. No such power was ever claimed for a Governor before. It is nothing more nor less than Gov. Caldwell's saying as did Louis the Fourteenth "I am the State."

FINANCIAL POLICY.

What is to be the policy and plan to relieve the State from its financial embarrassments, is a question well worthy the consideration of the Legislature.

The debt is 36,000,000 of dollars. The sale of the State's stocks in railroads will not pay the debt, nor half of it. By this means we get clear of our property without getting clear of our debts.

We suggest that the first thing to be done is to declare some plan, adopt some policy, and then go to work upon it. Let a committee be appointed who shall report the first day of the next session some plan for meeting this heavy debt, and save the State from the dishonor and disaster which will attend repudiation. When Dr. Worth's bill for the sale of the State's interest in railroads passed the Senate, many Senators declared they would pay only so much of the State's debt as the State's property would bring in market. If this is the policy then the creditors should know it.

No effort has yet been made to see what compromise can be made with our creditors. We all admit that the debt is more than we can pay. We can pay fifty cents on the dollar. Our creditors will take it upon the principle that "half loaf is better than none." When we arrange what we will and can pay, then let us devise the ways and means.

LICENSED BARBARISM.

When we heard Mr. Phillips on the floor of the House of Representatives, plead that, by leave of the people as it were, the Chief Justice of North Carolina continues his drunkenness, (called by Mr. Phillips infirmity,) we thought of Ireland in her early and barbarous days, when the Judges were allowed by the people to go naked, and to keep the Judiciary in countenance, the people dressed in the same style. Even so late as the reign of Elizabeth, a noble Irishman, Sir Neal Garve, forbid his tenants to plow and plant, that they might resist him to do mischief.

We can understand how a naked people would allow their Judiciary to go naked, and even admire the dress; but we cannot understand how a sober, virtuous, and intelligent people, by their votes, can license a Judge to get drunk. The debate in the House on the impeachment of Judge Jones, disclosed a state of judicial depravity in North Carolina sufficient to horrify Botany Bay, the land of convicts and kangaroos.

JAYBIRD JONES IMPEACHED.

By reference to the report of the proceedings in the House yesterday, it will be seen that articles of impeachment, five in number, have been adopted against Judge Jaybird Jones. The charges are confined to the Judge's beastly drunkenness, and as this can be most readily sustained, little time will be consumed in the trial.

The House appointed a Board of Managers last night, Mr. F. Phillips, chairman. The Managers thereupon proceeded to the Senate and announced their mission. The Senate then resolved itself into a Court of Impeachment and issued a summons for Judge Jones to appear and answer on Friday next at 12 o'clock. The court then adjourned till Friday at 11 o'clock.

CONSOLIDATION.—The engrossed Senate bill to consolidate the Atlantic & N. C. Railroad with that portion of the North Carolina Railroad extending from Raleigh to Goldsboro', passed its second reading in the House yesterday by a majority of four.

MR. WARREN'S SPEECH

Upon resolutions concerning the recent action of the Governor, the Chief Justice and certain associate Justices of the Supreme Court, in the Senate of North Carolina, March 21st, 1871.

Mr. PRESIDENT:—My only apology for claiming the attention of the Senate is to be found in the importance of the principles declared and the *probable* contained in the resolutions before us. At no time have I been made openly and demonstrably unable with this General Assembly or the Chief Executive of the State. I know of nothing more necessary than the ascertainment and proper understanding of the rights, powers, duties and privileges of the several departments of the government. The constitution itself declares that a frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty; and it is well once in a while, to remind men in high official positions of the limitations which the constitution has fixed to their powers and prerogatives. Mr. Madison has said somewhere in the "Federalist" that "the concentration of power in one department of government is the very definition of despotism," and that "the only security for freedom is in the separation of the departments of power." Is of the utmost consequence to preserve and guard the landmarks which divide the co-ordinate departments of a common government.

Now, sir, let us see to what relation the several departments of the State government now stand to each other—what attitude the Governor and the Supreme Court have assumed towards this General Assembly. Early in February the legislature, in the exercise of its proper functions, in the discharge of its duty to the people, in the interest of good government, and without any purpose to provoke strife or dissension, enacted a law which provided among other things, that the Governor should issue a proclamation directing the sheriffs of the several counties to open polls of election for a Convention and for delegates thereto. That part of the act was mandatory and left nothing to the discretion of the Governor. For the first time in the history of the State, the Governor refused to issue the proclamation and to give effect to the law. The act was ratified on the 9th of February and on the 13th the Governor sent in a message notifying us of his refusal to execute the law and giving his reasons therefor. He sent us at the same time an opinion of four of the Justices of the Supreme Court, which he somewhat exultingly claimed sustained him in his action. He sent no opinion of the Attorney General, who by the constitution is made his legal adviser, nor did he assign any reason for not doing so. He took counsel of those who would give him the opinion he wanted.

The first observation I have to make upon this message is, that it ought not to have been received. It ought not to have been received because the Governor is not authorized by the constitution to send us any such message. Section 5, art. 3, of the constitution, provides that he "shall from time to time give the General Assembly information of the affairs of the State, and recommend to their consideration such measures as he shall deem expedient." This message gives us no information of the affairs of the State, nor does it recommend any measure which in his opinion we ought to adopt, or which he thinks it proper we should adopt. No where is the power given him to send to the legislature, a communication of this character.

The message ought not to have been received, because it was disrespectful and insulting. I should pay the Governor but a poor compliment for intelligence and discernment, if I were to say that he did not know that it was disrespectful and insulting. He passed upon the act as a Judge, but did not confine himself to delivering a judicial opinion. He sent us a "stump speech" of the most shallow pretension in which he resorts to the petty artifices and things and innendoes of a trained demagogue. A proof of what I say I will read some portions of the message: "When our present Constitution was adopted it was not by force or binding effect until it was submitted to the Congress of the United States and received its sanction and approval. This was rendered necessary by an act of Congress passed on the 2d day of March, 1867, entitled 'An Act to provide for the more efficient government of the rebel States,' and by an act supplementary thereto, passed on the 23d day of March, 1867, 'to facilitate restoration.' Both of these acts secured the approval of the Legislatures of North Carolina and the people of the State acquiesced in their provisions, and time and again, in the Legislative Halls, on the hustings and in the courts of justice the leading representative men of the State have affirmed that, *in good faith*, they would abide by and support those laws until they were altered, modified or repealed by the law-making power of the nation, or were declared to be unconstitutional by the judiciary of the United States. Neither of these contingencies has yet happened, and as our Constitution could not have gone into operation without the sanction of Congress, I submit that no part of it can be altered or amended without the same sanction, unless the alteration or amendment be made in the way indicated by the Constitution itself. Congress agreed, when it accepted our Constitution, that we might amend it in two ways, first, by calling a Convention, two-thirds of all members of each House of the General Assembly concurring; and, second, by legislative enactment, as provided in article 13, section 2. The people of North Carolina, by their delegates in Convention assembled, and afterwards by their own votes, agreed to the same thing. Will it not now be justly regarded as an act of Punic faith, on our part, if we claim that we did not intend the consequences of our own act, but, on the contrary, had the ultimate purpose to violate our plighted honor whenever we felt it convenient to do so? God forbid that we should give any one cause to believe that we or our people could be wilfully guilty of such an act of duplicity and treachery." He speaks of an agreement on the part of Congress. Let us see whether there was any agreement, and if so, what it was. The act of Congress of June 25th, 1868, declares that the Constitution is republican in form, and provides that the State shall be entitled and admitted to representation in Congress as a State of the Union when the Legislature shall have duly ratified the amendment to the Constitution of the United States, proposed by the 39th Congress, and known as "Article 14," upon this fundamental condition, "that the Constitution of the State shall never be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote in said State, who are entitled to vote by the Constitution thereof, herein recognized, except as a punishment for such crimes as are now felonies at common law, whereof they shall have been duly convicted under laws equally applicable to all the inhabitants of said State." That is all of it. Congress did not undertake to frame a construction upon any provision of the Constitution. Yet the Governor has the effrontery to say that Congress approved of the Constitution with its construction of it, and agreed that it might be amended in his way and no other. Having conclusionally settled this question to his satisfaction, he proceeds to say that it would be an act of Punic faith to amend the Constitution in the way proposed by us, that is, to submit the question of a Convention to the people by less than two-thirds; and he hurls the imputation of Punic faith at us for so doing, and as if the phrase were not understood, our pedagogue defines it to mean "duplicity" and "treachery." Now, sir, I dislike to use harsh terms in public debate, and above all to use such offensive terms to a co-ordinate branch of the government, in the halls, in the hustings and in the courts of justice; the leading representative men of the State have affirmed that, *in good faith*, they would abide by and support those laws until they were altered, modified or repealed by the law-making power of the nation, or were declared to be unconstitutional by the judiciary of the United States. Neither of these contingencies has yet happened, and as our Constitution could not have gone into operation without the sanction of Congress, I submit that no part of it can be altered or amended without the same sanction, unless the alteration or amendment be made in the way indicated by the Constitution itself. Congress agreed, when it accepted our Constitution, that we might amend it in two ways, first, by calling a Convention, two-thirds of all members of each House of the General Assembly concurring; and, second, by legislative enactment, as provided in article 13, section 2. The people of North Carolina, by their delegates in Convention assembled, and afterwards by their own votes, agreed to the same thing. Will it not now be justly regarded as an act of Punic faith, on our part, if we claim that we did not intend the consequences of our own act, but, on the contrary, had the ultimate purpose to violate our plighted honor whenever we felt it convenient to do so? God forbid that we should give any one cause to believe that we or our people could be wilfully guilty of such an act of duplicity and treachery." He speaks of an agreement on the part of Congress. Let us see whether there was any agreement, and if so, what it was. The act of Congress of June 25th, 1868, declares that the Constitution is republican in form, and provides that the State shall be entitled and admitted to representation in Congress as a State of the Union when the Legislature shall have duly ratified the amendment to the Constitution of the United States, proposed by the 39th Congress, and known as "Article 14," upon this fundamental condition, "that the Constitution of the State shall never be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote in said State, who are entitled to vote by the Constitution thereof, herein recognized, except as a punishment for such crimes as are now felonies at common law, whereof they shall have been duly convicted under laws equally applicable to all the inhabitants of said State." That is all of it. Congress did not undertake to frame a construction upon any provision of the Constitution. Yet the Governor has the effrontery to say that Congress approved of the Constitution with its construction of it, and agreed that it might be amended in his way and no other. Having conclusionally settled this question to his satisfaction, he proceeds to say that it would be an act of Punic faith to amend the Constitution in the way proposed by us, that is, to submit the question of a Convention to the people by less than two-thirds; and he hurls the imputation of Punic faith at us for so doing, and as if the phrase were not understood, our pedagogue defines it to mean "duplicity" and "treachery." Now, sir, I dislike to use harsh terms in public debate,