THE ERA.

A REPUBLICAN WEEKLY NEWSPAPER—THE CENTRAL ORGAN OF THE PARTY.

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THE ERA.

THURSDAY, JULY 15, 1875.

Extracts from the Western Address.

On the 1st day of January, 1851, the Western members of the General Assembly of North Carolina, without distinction of party, issued an address to the people of the State, from which we make the following extracts:

"Your Bill of Rights says "That all political power is vested in and derived from the *people only*." Is power in the Senate of North Carolina derived from the "*people only?*" Let it not be said that taxation and representation go hand in hand. That principle has no application here. It is true that our ancestors fought the battles of the Revolution upon the principle that they were not to be taxed by a body in which they were not represented. But who represented? certainly the people—those who paid the taxes—not the taxes themselves. Our ancestors never claimed that their property should be represented. They claimed, and justly too, that *they* should be represented. In the Senate, *property* is represented and not *the people*; and the same principle which prompted our ancestors to that glorious contest, and sustained them in it, which terminated in the achievement of our Liberties, should prompt us to war against this most odious anti-Republican remnant of feudal aristocracy by which the people are taxed by a body in which they are not represented.

Apply the principle and see its injustice. Ten men in any one county, own as much property and pay as much public tax as five hundred men in another county. They all own the same species of property. Each of the five hundred is equally interested in the preservation of his little mite as either of the ten. Each one has perhaps made it by the labor of his hands, by the sweat of his brow. It is all he has, by means of which to maintain and provide for his family. It is the dependence of his children for education for sustenance. And yet, by the present system, the ten are equal to the five hundred. Is this justice? Is this Liberty? Let war break out—let civil commotion arise, whose lives are exposed for the protection of this property? Who are sent forth to fight the battles of your country? The five hundred go forth to fight the battles of your country; to vindicate its honor; to maintain its glory; leaving their wives and little ones to struggle on in poverty and indigence; while the ten stay at home, enjoy their wealth, and boast of the honor and glory of their country, the bravery, the freedom, and equality of its citizens. Save us from such freedom—save us from such equality? It is no freedom—it is no equality. It is downright tyranny tyranny in its most odious form. The few grinding into the dust the many, under the iron heel of power power under the pretence of being derived from 'the people only.'"

* * * * * * *

"Property has no rights independent of persons. You can give it no rights, nor privileges, nor immunities which affect it alone. It is matter, and cannot feel nor enjoy rights, but in consequence of its possession, you may give its owner political power and privileges. If, then, you protect citizens in the enjoyment of property, is not the possessor of hundreds equally entitled to protection as the owner of thousands? Is his enjoyment the less? Do you measure enjoyment by the quantity enjoyed? Suppose you take from the rich man his thousands it is only his *all*. If you take from the poor man his hundreds—it is *his all too*. Which will cling to his all with the more pertinacity?—Which will surround it with more guards; use it more sparingly; and more carefully provide that it shall not be consumed by profuse and lavish expenditures of government? It is notorious that the poor complain most of high taxes, and it is natural; it is harder for them to pay them. It diminishes the aggregate of each more, although the amount taken away is less, and every poor man hopes and expects to improve his condition, and one day to become rich.—Hence it is in Western North Carolina we are more interested in the preservation of slave property; because, although we may have fewer slaves, we have more *slave owners*; and, of course, a greater number of persons to watch over any aggression upon it. The same is true of land. We have more land owners, and owners of every other species of property; and fewer of that class of persons who have nothing to enjoy, and nothing to protect or defend, but their rights of person.

To connect together the people of the State in one common bond of interest, it is only necessary that they should possess the same kind of property, and that taxes should be direct and uniform. Indirect taxes are seldom representatives of the wealth of the community where they are collected. The amount of public revenue collected in the city of New York is no sure test of the wealth of that city. And many of our taxes are indirect, and furnish no index of the wealth of the counties in which they are paid.

It is idle, then, to say you must give more political weight to the rich than the poor—the owner of thousands than the owner of hundreds. A thousand owners of any particular species of property will afford it much more effectual protection than *one* owner of the same amount and species, under any form of government that would be tolerated for a moment in a free country."

Perquimans County Republican Convention.

A County Convention of the Republicans of Perquimans county, composed of delegates from each township, was held in the court-house in Hertford, on Wednesday, June 30th, 1875.

The Convention was called to order by Jno. H. Cox, Chairman Rep. Co. Ex. Com., and on motion, Col. D. McD. Lindsey was called to the Chair, and H. H. Griffin and Jacob White appointed Secretaries.

The object of the meeting was appropriately explained by the Chairman.

On motion, a committee of one from each township was appointed on credentials, to-wit: Henry White, E. Peele, S. E. Ensworth, J. A. Faulk and Frank Duke.

On motion of E. A. White, a committee of five were appointed on resolutions, viz: E. A. White, J. H. Cox, J. Q. A. Wood, Nathan Reed and Wm. Overton.

The committee on credentials reported each township represented.

The committee on resolutions submitted the following, which were unanimously adopted:

WHEREAS, the last Legislature forced upon the people a Constitutional Convention in direct violation of time-honored precedents by failing to obtain the people's sanction or any expression of their will in the premises; therefore,

Resolved, 1. That we see no necessity for any alteration of the organic law of the State by a Convention as proposed—and request our delegate to secure the speediest adjournment of the Convention, consistent with the preservation of all the rights and liberties contained in that instrument.

The second resolve declares the Convention unnecessary, unwise and dangerous to the rights of the people.

The third, that the restrictions contained in the act are not, and never have been, regarded as binding by thinking men.

The fourth, that the Democratic leaders have disregarded the will of the people as expressed in 1871.

The fifth favors amendments by the legislative method.

The sixth, that forgetting all past differences, the Republicans of Perquimans county will make common cause and press onward to victory.

The chair announced that nominations were in order, whereupon, Hon. J. W. Albertson, Willis Bagley, Esq., and J. Q. A. Wood, Esq., were put in nomination. J. Q. A. Wood, in a few pertinent remarks, withdrew his name. The convention then balloted, and the Hon. J. W. Albertson having received a majority on the first ballot, was then declared the nominee. On motion, the nomination was made unanimous.

On motion, a committee of three were appointed to inform Judge Albertson of his nomination, and request his attendance. In a short time Judge A. came forward, and in a spirited and appropriate manner thanked the convention for the honor conferred, and accepted the nomination in a well-timed speech of more than an hour, sustaining the great principles of the Republican party, and dealing the enemy hard blows, bringing down the audience in frequent applause.

Loud calls were then made for Willis Bagley, Esq., who came forward and entertained the vast audience in a lengthy address, denouncing the Convention as uncalled for, expensive and detrimental to our best interests. The speaker closed amid deafening applause.

On motion, J. H. Cox, Thomas Lindsey, J. Q. A. Wood, E. A. White and Joseph Overton, were appointed Executive Committee for the county.

On motion, ordered that the proceedings be published in the *Era* and *North Carolinian*.

Thanks having been tendered the chairman and secretaries, on motion, the convention adjourned with three cheers for the nominee.

D. McD. LINDSEY, Ch'n,
JACOB WHITE, } Sec's.
H. H. GRIFFIN, }

Wilmington Gerrymander.

OPINION OF RODMAN, J.

State *ex rel.*, Van Bokelen, *et als.*, *vs.* Canady, *et als.*

I concur in the judgment of the Court. But as I cannot concur in some of the reasons of the majority, as expressed by Justice Reade, it is proper to state wherein I differ from my Associates, and my reasons for the difference:

1. I concur in thinking that the Legislature has no right to require a residence of *ninety* days in the city of Wilmington, as a qualification of voters in a city election. Much less has it a right to require such a length of residence on *the same lot*. The Constitution requires as a qualification of voters, a residence of twelve months in the State, and of thirty days within the county, where they offer to vote. It says nothing about residence in a city, as a necessary qualification to vote in a city election. It must be conceded, however, that no person can vote at a city election unless he resides in the city at the time he offers to vote.

I think also, that it is within the power of the Legislature to require as a qualification that the voter shall have resided for a reasonable time within the city. There can be no reason why every person (otherwise qualified,) who *actually and bona fide* resides in a municipality, be it a State, county, township or city, at the time he offers to vote therein, should not be allowed to vote. But it is also reasonable to require that the *bona fides* and intended permanency of the residence shall be clearly proved, and this can be best done by showing that it has existed for a time long enough reasonably to create the presumption of good faith and permanency.

This time, the Constitution has fixed as to counties, at thirty days. And the rule is equally applicable to cities if the Legislature think proper to apply it. The Legislature may shorten the time which will create the presumption of good faith and permanency, but they cannot extend it beyond what the Constitution says shall be sufficient for that purpose. If they can extend the time beyond thirty days, there is no limit.

As a ward of a city has no separate government or interest distinct from that of the city, there would seem to be no reason in requiring any time of residence in a certain ward, as a qualification for voting for city officers, as distinct from ward officers, if there be any such.

But to require that the voter shall have resided for any definite time on the same lot, evidently makes a disqualification which can find no sanction in the Constitution, or in justice or reason. In large cities most of the inhabitants are boarders or tenants. Under the Act we are considering, if a voter should leave a hotel for another, or if his lease should expire and he should remove to another residence in the same city, within ninety days before an election, he would be disqualified. It cannot be necessary to say more on this part of the case, except to observe that the act was enacted only about forty days before the election.

2. I also agree with the majority of the Court in its view of that part of the act which requires voters, before being registered, and also if challenged, before voting, to prove their qualifications by witnesses *personally known to the registrars and poll-holders*.

These officers are in a certain sense judges. The registrar (to confine myself to him,) must be satisfied of the qualifications of a voter before registering him, by the same rules of evidence which apply to other judges of facts, and an action would be against him if after reasonable proof of qualification he should *maliciously* refuse to register a person entitled to registration. No doubt the Legislature may enact *general laws* admitting or disqualifying certain classes of witnesses, but its power cannot be unlimited in this respect. I conceive it has no right to enact a rule of evidence for a particular case; or to impose such qualifications on witnesses as practically leave the admission of the evidence to the arbitrary opinion of the Judge, without liability to review; or to make the competency of witnesses in a particular class of cases dependent on a mere accident, and independent of any rule professing even to be founded in reason. What could be said for a law which made the competency of a witness in all cases, or in any particular class of cases, for example, on trials for murder, to depend upon the irrelevant accident, that the witness was, or was not, *personally* known to the Judge, or jury; and which left it in the discretion of the Judge to admit or deny his personal acquaintance, according to his caprice.

The injustice and folly of such a law would be so gross, that its validity would not find an advocate. Yet that is a part of the act we are considering. The right to vote is property, and no man can be deprived of it "but by the law of the land," (Bill of Rights, s. 17,) and the arbitrary will of a registrar or of a judge is not "the Law of the land," in the well settled meaning of the Bill of Rights.

The requirement that the witnesses to the qualification of a voter shall be personally known to the registrar, is a new and most unreasonable addition to the qualifications for voters which the Constitution prescribes, and in my opinion is clearly beyond the power of the Legislature.

3. In the third proposition of the majority, I do not concur.

The Constitution gives to the Legislature the general power of legislation subject only to certain specified restrictions. The legislative power includes as part of itself the power to create and regulate municipal corporations, to prescribe what officers there shall be, the manner of electing them, (subject, of course, to any constitutional provisions which may be applicable,) their powers, &c. The Legislature may do this by a special Act for any particular municipality, for this power is clearly given by Art. VII, Sec. 1, of the Constitution. In the power to create and provide for the organization of a city, whether this power be derived from any special provisions of the Constitution, or general grant of legislative power, it seems to me, must be included the power to divide it into wards. [See 1 Dillon Mun. corp., sec. 19.] This being conceded, I find nothing in the Constitution which restrains the legislative power in its action on this subject, or requires that the several wards shall be equal in area, population, or taxable property; or forbids that each ward, however unequal in all of those respects, shall send the same number of representatives to the city council. It must be admitted that there is no express restraint on the legislative power in these respects. But it is argued that there is a genaral spirit or intent to be gathered from the Constitution, to the effect that every voter shall have an equal weight in electing public officers, and in the government of the State, or of the subordinate municipality to which he belongs. It has been said by some one before, that it is dangerous to undertake to construe a constitution upon what may be supposed to be its general spirit, for one may be easily misled by a prepossession as to what that spirit ought to be, and the results, even of the most impartial inquiry into so uncertain a subject, can never be certain. For my part, I find no indication of any such general intent, and certainly of none which can be applied to cities and towns, by any admitted rules of reasoning.

Art. II, sec 6, says that the House of Representatives shall be composed of one hundred and twenty representatives, to be elected by the counties respectively, according to their population, *and each county shall have at least one representative, although it may not contain the requisite ratio of representation.* Section 7 provides how the ratio of representation shall be ascertained, and how fractions shall be carried over, with the view of producing something like an approximation of representation to population.

These provisions are merely directory. They look only to the existing, or some similar division of the State into counties. It is left open to the Legislature to create new counties, as it has repeatedly done, without any objection to its constitutional power to do so. For aught that I see in the Constitution, it might divide the State into one hundred and twenty counties of unequal area, population and taxable property, when each would be entitled to one representative in the House. I think this instance, without going farther, is sufficient to show that there is no general controlling intent in the Constitution restraining the Legislature from an unequal distribution of political power.

That this power may be abused for partisan ends, there can be no doubt. It is indifferent to me whether in this case it has been abused, or not. This Court has authority to repress an usurpation of legislative power, but not to correct a mere abuse of it. For that, the Legislature is responsible to the people alone.

It is proper here to notice a position taken in argument by the learned counsel for the plaintiff, which might seem to find some countenance in the generality of my expressions, as to the legislative power to create, organize, and regulate, municipal corporations. The contention of the learned counsel was, that the Legislature might itself *appoint* the municipal officers, and consequently, if it allowed them to be elected, had an unlimited power to prescribe the qualifications of the electors. I do not think that this conclusion fairly follows, from the concession to the Legislature of general legislative power over such corporations. The appointment of officers, except merely temporarily, and for the purpose of organization, is not properly a part of the legislative power. It is not included under the general grant, and clearly, it is not elsewhere specifically granted. Therefore, under sec. 37, of the Bill of Rights, it remains with the people, that is to say, with the people of the locality in which the office is to be exercised.

From this reasoning my conclusions are:

1. That the Legislature may constitutionally divide a city into wards unequal in population, &c., and give to each ward an equal representation in the city council.

2. That it cannot require any qualification for voters in city elections additional to those required by the Constitution for voters in general.

3. It may require a residence of thirty days within the city before voting, as an assurance of *bona fide* residence within the city at the time of voting.

4. That the proof of the qualification of a voter cannot be materially other than is competent under the general rules of evidence.

EDITORIAL.

The Infamous Proposition.

Every indication seems to point to a preconcerted arrangement on the part of the revolutionists to attempt a complete subversion of the people's rights. Never in our history has there been, for instance, such an outrageous and insulting proposition to enslave the freemen of this State as is contained in the proposal of the Albemarle *Register* to place the great privilege of the elective franchise entirely in the hands of the property holders.

Freemen of North Carolina! what do you think? *What can you think* of the men who will thus coolly and deliberately plot the enslavement of yourselves and your children?

The proposition is this, and we will state it in a plain straightforward manner: If, by misfortune, want of employment, or other causes, a poor man should be unable to pay such a tax as may be levied upon the poll, then he is to be deprived of any participation whatever in any election of either State, county, municipal or district officers. He is to have no vote for any candidate for office nor for any proposition of a public character which may be decided by popular election. This is the first proposition, and this is enough to damn in public estimation the man or set of men who make it. But the sum of infamies is yet to come. What is it? While the *Register* graciously proposes, that if the poor man should pay his tax on the poll he may be allowed *one* vote, it insults the people of North Carolina with the further proposition that for every *three hundred dollars' or five hundred dollars' worth of property upon which a man shall pay a tax he shall be allowed an additional vote.*

Now let us see how this revolutionary and insulting proposition would work? Suppose, for example, that a brainless fop, arriving at the age of twenty-one years, should find himself heir to property of the taxable value of one hundred thousand dollars. This fellow, with no experience in life, and with perhaps no moral character, would, at any election, be allowed to cast *two hundred votes*, while his poor hard-working neighbor, although he may be ever so intelligent and industrious, is only entitled to *one* vote. Was such an infernal doctrine ever before seriously submitted for consideration to any portion of the American people?

But now comes another feature of this monstrous proposition of the *Register*, and one which will readily prove to any who may still be in doubt as to the aims of the democracy in relation to the proposed restrictions, that no intention to regard them exists among any considerable portion of that party. In the act calling the Convention the Democratic party, with a great parade of sincerity, adopted what are known as several restrictive clauses, one of which is as follows: "Nor shall they (members of the Convention) require or propose any educational or property qualification for office or voting." The proposition of the *Register* is therefore in direct conflict with one of the restrictions imposed by its party, and by which they succeeded in carrying the measure through.

We have dwelt thus long upon this subject, because we believe it to be fraught with great danger to the people of the State. It is overwhelming proof that the very existence of a Republican form of government in North Carolina is endangered, and unless the people arise up in their might and crush it in its incipiency, we may have such a revolution in the State as will shake all grades of society to its very foundation. *The people are not to be trifled with.* Having tasted the sweets of liberty in its broadest sense they will not surrender it at the bidding of such pampered aristocrats as endorse the infamous doctrines of the *Albemarle Register*.

THE Convention of 1868, which is so much censured and ridiculed by the so-called *learned* politicians, was the first public body in North Carolina that ever made provision for a homestead for the husband, for the wife, and for the widow and children after the death of the husband. *The Republican party of this State did this.* But, say the advocates of the Convention, we do not propose to touch the homestead. Let us see how this is: The Democratic lawyers, nearly all of whom are Convention men, made an earnest effort to upset the homestead, on the ground that the constitutional provision was to be applied in the future, and not to operate against old debts. They said they wanted the people to pay their debts whether they kept their homes or not, and they held that the homestead provision was altogether in the future. But what did our Supreme Court say? It decided, in 1870, that the homestead was good against *all* debts, and therefore our people have their homesteads. The Convention may, indeed, not touch the homestead, but it can *change the Supreme Court*, and *what then?* Do not the homestead men see that their rights to their homes hang by a hair? Would it be wise in them to put their rights in jeopardy by voting for men who will change their Supreme Court? Do they believe that those who tried to take their homes from them in 1870, are less disposed to do it now than they were then? Suppose a new Supreme Court, or a partially new Court, should announce a new Opinion in the place of that of Judge Reade—for it is only an *Opinion*, and not what is called in law a *decision*—are not all the Judgments against these homesteads on the Court dockets *ready to be enforced?* Depend upon it, fellow-citizens, there is a cat in that meal tub. "Power is always stealing from the many to the few." You have got your homesteads. You are now safe in your homes. There is no danger, *unless the Supreme Court is changed*, that your homes will be sold for old debts. Beware how you trust men who have called a Convention without asking your consent, and who will not promise you that they will not touch the Court. To touch the Court is to touch and destroy the homestead!

The same class of men, who, by inflamatory speeches and incendiary newspaper articles, urged on the people in 1861 to secession, rebellion, bloodshed and ruin, are now the main advocates of a Convention to overturn the Constitution of North Carolina. The people of the State should forever spurn these traitors. The revolutionists of 1875 are no better than the secessionists of 1861. In fact, when we consider the sad experience of the past fourteen years, we can but conclude that the madmen who are to-day fanning the flames of discord and revolution are far worse than those who plunged us into war with the government of the United States. It was then an untried experiment. But now, when our State is working in complete harmony with the central government; when we are living quietly and prosperously under a compact solemnly agreed to and concurred in by the people of the State, when every interest of our citizens demands peace and quiet, to have the masses of the people inflamed to the highest pitch of excitement by designing and bad men for selfish considerations, is, in our opinion, enough to arouse the indignation of every lover of peace and good order.

If the present Constitution contained, in any of its parts, features inimical to the great body of the people, or if it contained any clause or section under which any portion of our citizens are oppressed, some shadow of excuse might exist for the revolutionary attempt to overthrow it. But it is a fact that cannot be successfully controverted, that the people were never so free as at present. Every broad and liberal feature that the good and true men of all parties have insisted upon for the last twenty-five years is embodied in the present organic law. What then, we ask, is the cause of these frequent demands for constitutional change? The answer must be that they proceed from malcontents and soreheads, who cannot exist without some general upheaval. Little do they care what fate befals the honest working men of the State, so they can fatten and float to the surface. It is with them now, as it was in 1861, either to rule or ruin. It is for the people to arise up in their might and crush this second attempt to bring destruction upon us. To do this they should refuse in every case to support any man who will not pledge himself to thwart the aims of the revolutionists by voting for an immediate adjournment of the Convention, and thus settle at once, and it is hoped for years to come, the question of constitutional amendments in North Carolina.

The Wilmington *Journal* is somewhat excited over the recent decision of the Supreme Court in relation to the gerrymander of that city. After shewing its teeth, in a somewhat ridiculous manner, and denouncing the highest tribunal of the State as biased on account of political opinions, it let the cat out of the bag in the following style:

"If argument was needed before to show the necessity for changing the Constitution that gave birth to such a court, none is needed now. The issue is now made up, and it is, shall all the power in the land be entrusted to five men calling themselves the Supreme Court."

We call upon the peaceable and well-meaning citizens of North Carolina to carefully read and weigh well the words of the *Journal*. What do they mean? In our opinion they foreshadow a deliberate purpose on the part of the revolutionists in case they have a majority in the coming Convention, to overturn the highest judicial tribunal of the State because it did not think it proper or just, or in accordance with law, to render a decision favorable to one of the most tyrannical and obnoxious measures ever concocted for the overthrow of the people's rights. The Supreme Court of North Carolina, that highest tribunal known to our State system, having among its members some of the best legal minds known to American jurisprudence, is to be swept aside merely because, by virtue of its acknowledged authority, it has declared unconstitutional one of the most detestable plans to oppress the poor and humble man, and to place all power into the hands of a moneyed aristocracy.

But, fellow-citizens, the Supreme Court of North Carolina has been guilty of another thing which, in the opinion of such men as follow in the lead of the *Journal*, constitutes an unpardonable crime: It has decided that the Homestead is good against old debts, and in this way it has protected the interests of the poor man against note-shavers and bloated, purse-proud aristocrats. This is the true reason, after all, for the base attacks of the *Journal* and other revolutionary organs.

The people of the State can now plainly discover the proposed programme of democracy. Its aims are now, as in 1861, to overturn every obstacle to their mad designs upon constitutional liberty, and if need be, to plunge us again into revolution, if, by so doing, a chance may present itself to seize upon the reins of government.

Now that we have been prompted by the *Journal* as to the real issue its party intends to enforce, let us arouse up to renewed energy. From every hill and valley let the shout go forth for "Our Constitution as it is;" and let us have enscribed upon our banners the great principles it embodies.

There can be, nor must there be, *any relaxation of our efforts. We must win or be crushed under the iron heel of tyranny and oppression.*

THE news from the Western portion of North Carolina is of the most encouraging character. The people are reported to be thoroughly aroused to the importance of the coming election and determined to overthrow the schemes of the revolutionists. We learn that in many localities party lines have, for the time, been discarded, and men of all political complexions are working together to prevent renewed anarchy in the State.

The truth is, the people of Western North Carolina cannot afford to have the present Coustitution endangered. It is to them the ægis of their safety and prosperity, at least for many years to come. It should be remembered, that their main dependence for reaching the markets of the world is upon the Western North Carolina Railroad, now in course of construction, and it should be constantly borne in mind that under the present Constitution it is provided that no appropriations for further works of internal improvements can be made, and consequently no tax for that purpose can be levied unless submitted to the people, until the roads in progress at the time of the adoption of the Constitution are completed. Should the Democratic party have a majority in the Convention this great bulwark may be thrown aside, and the West may for years remain cut off from the Eastern part of the State. It is no wonder that the people of the West are aroused, and we shall be much mistaken if Democracy does not receive its most crushing defeat West of the ridge in August next.

The Western North Carolina Railroad.

The Legislature did a clever thing when it authorized the State through Gov. Brogden and others to purchase the Western North Carolina Railroad. But it failed to make an appropriation to pay the $10,000 required to be paid on the day of sale. Judge Merrimon was willing and anxious to transfer his bid, but the State was not authorized to pay any money, therefore the transfer could not be made. In this dilemma, a good Republican stepped up and paid $10,000 in cash to save the road to the State, and thus ensure its completion. What a Democratic Legislature failed to do, a Republican comes forward and does on his own responsibility. That Republican is Maj. W. A. Smith. The Western people will be indebted to him for the road, as he advanced the money to save it. He was the only man who could be found to do it. Carry the news to the West.

THE ERA.

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