Poetry.

SEEDS.

We are sowing, daily sowing,
Countless seeds of good and ill,
Scattered on the level lowland,
Cast upon the windy hill;
Seeds that sink in rich brown furrows,
Soft with Heaven's gracious rain;
Seeds that rest upon the surface
Of the dry unyielding plain.

Seeds that fall amid the stillness
Of the lowly mountain glen;
Seeds cast out in crowded places,
Trodden under foot of men;
Seeds by idle hearts forgotten,
Flung at random on the air,
Seeds by faithful souls remembered,
Sown in tears, and love and prayer.

Seeds that lie unchanged, unquickened,
Lifeless on the teeming mould;
Seeds that live and grow and flourish
When the sowers hand is cold.
By a whisper sow we blessings,
By a breath we scatter strife,
In our words and looks and actions
Lie the seeds of death and life.

Thou who knowest all our weakness,
Leave us not to sow alone!
Bid thine angels to guard the furrows
Where the precious grain is sown,
Till the fields are crowned with glory,
Filled with mellow ripened ears—
Filled with fruit of life eternal
From the seeds we sowed in tears.

Check the forward thoughts and passions,
Stay the hasty, heedless hands,
Lest the germs of sin and sorrow
Mar our fair and pleasant lands.
Father help each weak endeavor,
Make each faithful effort blest,
Till Thine harvest shall be garnered,
And we enter into rest.

The Law and the Testimony.

The Constitutition of North Carolina expressly declares that 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.

JUDGE GASTON AND CONVENTION.

Upon the question of amending the Constitution in the Convention of 1835, Judge Gaston said:

"This was one of the most important questions that had come before the Convention; for, whatever benefits we may have promised ourselves from our labors in the body, in laying the foundation of our Constitution on equitable and fair principles, if we put it in the power of *bare legislative majorities* to upset them all, then indeed have we toiled in vain. He was not only surprised, but filled with fearful apprehension. It appears as if this body was going rashly from one extreme to another. Because difficulty has been experienced in calling a Convention to amend our Constitution, we are determined to have a *perpetually changing Constitution*. What is the proposition recommended in the Report? That two succeeding Legislatures, by a *bare majority* of votes, may alter any part of the Amendments which may be adopted by this Convention, or any principle in the Bill of Rights, consecrated for the security of our lives, liberty and property. What reason is given for this proceeding? *That a majority ought to govern.* Let us not be deceived by generalities. In what sense *ought majorities to govern*? That the deliberate will of the people ought ultimately to prevail, no one will deny; but that the *temporary will of a majority, which may be produced by the effervescence of the moment, ought to do what it pleases, set up and pull down Constitutions from day to day*—no man can be so extravagant as to desire.

"If nothing more is needed for the purpose of government than this brief maxim, let the majority govern, what becomes of all our checks on majorities? Why have two branches in our Legislature? Why judicial establishments? Why trial by jury? If we adopt this unfettered principle, why any of these establishments?

"He would rather live under the most despotic government on earth, than under an unlimited government of numbers. He might escape the notice of one Tyrant, but there could be no escape from a multitude of Tyrants."

On a subsequent day, Mr. Gaston, of Craven, thought that the sense of the Convention had been so distinctly ascertained, the other day when the question was discussed, that no further obstacle could be thrown in the way of carrying out the principles agreed on.

But we are now met by the popular cry, that we are about to *limit the power of the people*. It was not the *people* but the *creatures* of the people, that the amendment proposed to limit. The course proposed was not an unusual one. It was recognized in three Constitutions which he had picked up on the spur of the moment, viz: South Carolina, Alabama and the United States. *It is to impose a check on the Legislature, that it may not avail itself of an accidental majority to disturb the repose of the people by frequently calling them together in Convention.* We are called on by every consideration, not to sanction the principle, that a *bare majority may authorize a Convention*, if we do, we shall be exposed to continual fluctuations. The people have, it is true, the sacred right of Revolution, they possess the power of rising in their might and upturning the fundamental principles of government; but they cannot do it, unless the emergency is great. Mr. G. concluded by saying, if the right of a *bare majority to call a Convention* were recognized in the Constitution he would not give one fig for all the matters which the Convention had been engaged in adjusting, since it assembled. Instead of any permanent regulations, everything would be set afloat and we should have a new Constitution every two or three years.

STATE OF NORTH CAROLINA,

SUPREME COURT,
Raleigh, Feb. 11th, 1871.

To His Excellency, Gov. CALDWELL:

SIR:—In reply to your communication of the 9th inst., I have the honor to say, that the Chief Justice, and Justices Rodman, Dick and Settle are of opinion that the act to which you refer, is in violation of the Constitution.

All legislative power is vested in the General Assembly. Calling a Convention is an act of legislation. It follows that no Convention can be called unless it be done by the General Assembly.

The people have reserved to themselves no power of legislation. It follows, that a Convention cannot be called by a vote of the people; nor will such voting enable the General Assembly to call a Convention in a manner not authorized by the Constitution.

Justice Reade, for the reason stated by him when the opinion of the Justices was requested by the General Assembly in regard to the tenure of office, declines to give an opinion.

Upon the second question in regard to your duty, provided you believe the act to be unconstitutional, the Justices do not feel at liberty to offer an opinion.

Very respectfully, &c.,
R. M. PEARSON,
Chief Justice, Supreme Court.

[From the Old North State.]

CHIEF JUSTICE RUFFIN ON THE MODE OF CALLING A CONVENTION.

Under date of July the 2d, 1866, the late Chief Justice Ruffin wrote a long letter to a member of that body, discussing the powers of the Convention of 1865. We present below all of that part of his letter in relation to the manner in which a Convention of the people must be called under the Constitution of this State. It is clear, unequivocal and to the point. The eminent Chief Justice had no doubt whatever about the revolutionary character of a Convention called after the manner in which the present is attempted to be called. This will be almost universally admitted to be the very highest authority that can be cited on either side in the pending contest, and will, we believe, have more weight than any other.

We have italicised certain portions of the letter bearing more closely on the question now under discussion:

You will perceive, that I have hitherto discussed this subject, as depending on the original and natural rights of our people, unaffected by any provision of our pre-existing Constitution; and, even on that basis, I deny the authority of your Convention to make or propose a new or modified form of government for us. But the clause in our Constitution touching its amendment, or the call for a Convention for that purpose, is so clear and so precise against any such Convention as we have had, as to put the point beyond doubt or argument, as it seems to me: Two modes of amending the Constitution are provided: One through the agency of the General Assembly, proposing an amendment for ratification by a vote of the people, which need not be considered here; the other, by a Convention called in a manner prescribed in the Constitution, which is the matter now for consideration. *It is obvious that, in prescribing these two, all other modes are excluded by irresistible inference.* In respect to a Convention, the words are, "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." In either case the regularly constituted authority of the organized government is required to initiate an alteration of the government, which was no doubt, upon the sound principle laid down in the Rhode Island case, in order to avoid popular commotions, revolutions, and uncertainty as to what is the Constitution. If, then, the two modes designated are the *only ones* by which the Constitution can be altered, it is clear that this last—so-called—Convention was not a *Constitutional Convention*, and therefore its acts are *void*.

Yielding then, that Mr. Johnson's and Mr. Holden's Convention might, by popular acquiescence, adopt for us the measures demanded by them, yet it had no existence as a Convention of the people of North Carolina under the Constitution, and could not, therefore, alter that instrument in any of these points which affect our internal organization as a distinct Republican State; for example, the basis of representation, the qualifications of the Representatives, and of voters; the number and jurisdiction of Courts; the appointment of the Judges thereof; the tenure of their office, and that of the executive, or the like. *No disquisition can render these points clearer than the short and simple paragraph of the Constitution itself.* The conclusion can only be evaded by establishing as the truth, *that the clause of the Constitution was no longer in force*, and that position cannot be true, unless it be also admitted, that no other part of it was in force, or, in other words, that by virtue of the war and its results, we were a people without Constitution or law of any sort. It necessarily comes to that, and that never ought to be, and never can be, yielded. Perhaps it would be sufficient for our present purposes, to say, that, even your Convention does not assert such a doctrine, but plainly proceeds upon a contrary one, by professing to "amend" our old Constitution, as still subsisting, and not to make one *aboriginé*, and by designating the old laws still in force as contra-distinguished from those passed by Legislatures sitting under the auspices of secession. Indeed, it is impossible under any aspect of any kind, as understood among civilized nations and in modern times, that a whole people can be treated or considered as being without any law or ministers of the law, even by conquerors. The security, and the obligation of contracts still subsist. Can it, for instance, be supposed for a moment, that upon the death of a proprietor, there is no rule of succession to his real and personal estates, and that the first occupant may appropriate them, or that no body can! On the contrary, I say, that the laws of North Carolina were still her laws, including her fundamental law, and if so, *it is then to be deduced, that there could be no Convention to abrogate or to alter that law, unless called and chosen in the manner prescribed in it*, and that, as a corollary, your Convention had no power in the premises, and its *pretended powers and acts* ought not to be confirmed by the people, if the people could confirm them, but ought to be opposed and rejected. It would seem that body was aware of the defect of its powers, from the submission of those acts to the people thus seeking the requisite confirmation. But, in truth, such confirmation cannot be derived from that source; for *the same provision in the Constitution which makes the Convention a nullity*, equally excludes the efficiency of a popular majority to annul one Constitution and make another. As the act of a people living under a constitutional Government, even the vote of the majority is *propria vigore* ineffectual, without the assent of the subsisting constitutional government and its directions for taking the vote and ascertaining the majority. Without such previous authority and regulations the majority, if physically able, may overthrow the existing government, but it can only do so by revolution and not as possessing a legitimate delegated office and power. I need not, however, dilate further on this topic as the grounds and authorities on which the doctrine depends are, according to my recollections, set forth in the argument and opinion given by the Supreme Court in *Dorr's case*. Then, if the people of a State cannot, by their own direct vote, abrogate or make a Constitution, without the previous sanction of authority in power under the existing government, as in *Dorr's* case, much less can they do it, *when the Constitution then subsisting especially provides two other modes for effecting these purposes and excludes all besides, which is our case.*

We arrive then, at these results: that the Convention was not constitutional; it had no powers and could not make a Constitution; that for the same reason the people have no powers, and that as neither the Convention nor the people had any power in the premises, by consequence, both together are equally destitute of the requisite power. *The Convention was an authorized body, and therefore no more than a valuntary collection of so many men—a caucus* recommending to the people to adopt by their vote a certain instrument as our Constitution, a thing which the people, under our Constitution, are not competent to do on that recommendation, and therefore, the conjoint resolution and votes of the two bodies have no more effect than that of either by itself. I conclude it is no Constitution, and cannot be made one by what has been done, or can be done now.

What, then, does it behoove the people to do? They ought, it seems to me, promptly and decisively to reject the whole project. If it be suggested, that in our experience all conventions since those of '76, which formed our original Constitution, have regularly made them worse and worse, and therefore, we had better take this than run further risks, and especially that, at least, those who approve of the alterations shall give their suffrage for adoption. I reply, no! *The great principle of political and civil liberty, that a people may, and ought to make a Constitution and Government for themselves; that in so doing they ought to be careful to proceed in the regular and peaceful method which is prescribed, instead of an unauthorized, irregular and usurped mode from which uncertainty as to the validity of their doings, and consequent commotions arise, furnish the strongest reasons why every man should give his voice against the instrument now proposed, and wait for the action of the Legislature, the proposing of amendments to the people, or the duly calling of a Convention which would have legitimate power to adopt them.*

Let me here adduce a case which I ought to have added to the efficiency of the popular vote *per se*. I adduce it, because it is clear to the apprehensions of every one, and exhibits in a strong light the correctness of the argument against the popular power—a mere majority over the Constitution of a nation. The case to which I alluded, is that of the government of the United States. The Constitution there specifies the modes of amendment; *modes intended to protect minorities against superior numbers.* Now, suppose, upon this assumption, that the people may do as to them listeth, and that the majority of the people are THE PEOPLE, an attempt were made to alter the Federal Constitution of the United States—what sort of a Constitution should we have—who could endure it, especially at the South—who would endure it and hold it to be a Constitution? So it is under the provisions of our State Constitution. Then let our people with one voice reject it. That will quiet everything and we may begin anew, in a lawful way to make the Constitution what we wish it. But, if approved by the people and proclaimed by the Governor, all the questions upon the validity of the instrument and the powers of the Convention arise—questions affecting the right to all the old and the new offices, and the objection of the so-called Constitution—no bounds can be set to the disquietude incident to them, nor to the embarrassments of the Judiciary.

* * * * * *

Your friend, &c.,
THOMAS RUFFIN.

The New York *World* welcomes Stephens to the editorial ranks, and rejoices that talent so distinguished is to aid in shaping public opinion. Having thus endorsed his views, the *World* proceeds to state them, and gives an undoubtedly more honest view of Democratic principles than can be found in the "cut-and-dried" platforms of their conventions. On the amendments the editor says: "Amendment XIII., abolishing slavery, he regards as a valid part of the organic law, because ratified by the constitutional constituencies of a sufficient number of States." "Amendments XIV and XV he, *like all Democrats*, regard as the offspring of gross usurpations of power, passed by force, fraud, and perfidy." And not only this, but, following out his logic, he says: "But Mr. Stephens goes further, and thinks them invalid;" and adds that this practical concurrence of Mr. Stephens with the Democracy of the North, in connection with the sympathy of the South with his views, will increase the usefulness of his influence. In other words Stephens is to be the bond of union between the Democrats of the North and the Confederates of the South, and the yoke that is to hold the team together is to be the invalidity of the fourteenth and fifteenth amendments. This is the programme of the leading organ and inspiring spirit of the "new-departure" Democracy. It shows how much sincerity there is in the new professions of the Democracy, and how great would be the disaster could they obtain control of the Government.

The *Telegram* happens to stand with Republicans in this campaign in opposition to Convention, but it is because former Democrats of North Carolina have wantonly abandoned an old position of their party, and basely surrendered principles it took more than a generation to establish.

There are a few good old leading Democrats with us, while the workingmen of North Carolina—the under-strata of society—will, on the first Thursday in August, rally around the old position we have rescued and maintained.

So far as relates to the mere politician, we have no desire whatever to propitiate or win him over, nor do we care a groat for him, one way or the other; but the workingman, the son of toil, him who bears upon his shoulders the weight of government, to him and his opinions we defer, and his highest wishes will secure our co-operation, when all the efforts of the other fail to command us.—*Telegram.*

Col. Geo. W. Johnston, of Pitt, a prominent member of the bar, and an undoubted Conservative is reported as opposing the Convention scheme.

To the People of North Carolina.

Following the example set by their political opponents, the Republican party have instructed its Executive Committee to address you in relation to the proposed Convention.

It is very much against our wishes that you have been precipitated into a campaign upon this delicate and important subject. The State during the past ten years has been subjected to the experiments of various political doctors, and what seems most needed now is repose and quiet—an opportunity for the operation of nature's soothing and restorative powers, rather than a resort to new pills and potions, however confidently recommended. On the contrary, the conservative party produces in great plenty lancets, blisters, drugs—both emetical and purgative, patent medicines guaranteed by many certificates and a glittering array of surgical instruments—the upshot of which is that North Carolina is once more to be subjected to *active treatment*.

It seems that conventions are to become of ordinary occurrence in this State. Mr. Jefferson has been generally denounced by conservative men for having advised that State conventions should be called once in every twenty years. *Here*, however, in about one-half of that space we have had (including that now pending) no less than five elections upon the subject of conventions, and if the one now proposed shall be called (which Heaven forbid!) from these elections have resulted *four* separate sovereign conventions. It is obvious to ask if the three conventions already encountered have reduced the State so low, what will become of her after she has been submitted to the tender mercies of a fourth?

It has occurred to all men who labor, whether with hands or head, now and then to find themselves unaccountably unfitted for work which ordinarily is easy. At times nothing goes right. The brain and hand seem to have lost their cunning. Blunder follows blunder. Under such circumstances it becomes wisdom to withdraw the attention and go about something else. By so doing we see ourselves in a short time restored to power, and are enabled easily to triumph over the obstacles which just before had overcome us; we even wonder how it was that they had given us trouble. May not this sometimes happen to whole communities of men, as well as to individuals? Has not North Carolina, for the last ten years, been in just such a condition? We ask this question upon the conservative theory. If it be true, as said by them, that nothing but blunders have followed all this ten years of endeavor by North Carolina to amend her fundamental institutions, had she not better lay the task aside and await the coming of a season in which her brain will be clearer, her nerves more steady, her temper less ruffled, and her hand under better control?

Such is the advice which we most respectfully tender to the people. As the State is most clearly *out of sorts* for constitution making, let her for a while lay this business aside.

To the same effect we would add, if the loud adverse clamor upon this subject will permit us to be heard, that the present constitution is by no means the monster which it is represented. In very important respects it is an improvement upon any constitution we have ever had, and in no respect is it one that cannot be borne with until the community has reached a period more propitious for impartial consideration. Conceding that it needs amendment in substantial particulars, is such concession more than a *common place*, applicable to all our constitutions, State and Federal, and indeed to every political contsitution that has existed in any age or country.

Before taking the very cursory view of this instrument, which is all that the limits of an address will permit, allow us to remind you that the mighty political violence to which we have been subjected since 1861, resulted in casting North Carolina society, after 1865, upon *an unknown shore*. Everything around is strange. The social machinery of our old forms of life does not suit *here*. What was political wisdom *there*, in many respects, is not so *here*. Perhaps even the wise men of that condition of things are not the wise men of our present, and will not be so in our immediate future. If the character for wisdom in question was founded upon familiarity with the relations and proportions of the structure that has passed away, then *it* has perished along with them; and to call the possessors of such a quality to the conduct of that complicated machinery which now bears our fortunes, were as prudent, as under other circumstances it might be to call upon one heretofore known as a trusty wagon driver, to become at once engineer for a lightning express passenger train. There is, however, a quality more worthy of the sacred name of wisdom, which would, on such occasions, prove to be most valuable. If a citizen had studied and been inspired by the great theme of human liberty, divested of all such circumstances as are merely technical, accidental and transitory, if, whilst jealous for his own peace and freedom, he prized aright the peace and freedom of all other citizens of whatever color or lineage, if the beatings of his heart had been taught to keep time with that famous saying uttered by a dark skinned man in Athens two thousand years ago, which, endued with greater vitality and winged by a loftier eloquence than any other saying that had preceded it upon that renowned spot, has circled the earth and visited both poles, gathering new strength with the lapse of ages and bearing richer fruit with every returning season—to wit, that God *has made of one blood all nations of men*; if, in fine, his lessons had taught him to gaze with unabated delight upon that glorious scene within this Republic, on which the curtain rises higher from day to day, bearing in his heart all parts of the assemblage, and gifted with an eyesight so purged and unseeled as to be engrossed with the brilliance of the object rather than offended by its spots, then of such a one it may be said that there was not so much *room as need!*

Was there in all our borders such a man? If not, then, without disparaging the just claims of our more distinguished fellow-citizens, it was not of their assistance that our society had most need. This new wine was not for their old bottles.

Our fundamental institutions required for sure laying workmen who were not trammelled by ideas peculiar to the former state of things in North Carolina. However such men might fail upon certain details, their work would not be affected by the deadly sin of a failure to correspond with the situation; whilst upon the other hand, however skillful might have been *the details* of the work by our own good men, it would have been utterly cursed by being unconformable to, and unsusceptible of union with, our new society. The chances therefore are that the parties stigmatized as *carpet-baggers* and *negroes*, had some qualties for framing a new constitution for North Carolina that were in advance of those possessed by many of the best educated and most distinguished of our own citizens! It is probable that our posterity and history will pronounce that the constitution of 1868 had less unsuitableness to the true condition of the people of North Carolina that any paper that would probably have been drafted by the best of our native citizens. It will be said that it sympathized with the new social life that had sprung up and was to continue—whereas that *sympathy was the very point of disgust and aversion* with those whose theories had taken color and proportion from the former North Carolina.

A consideration and digestion of such questions in the only wise temper—that of *travelers*—will, we are persuaded, entitle the constitution to a favorable judgment, and and render a consideration of its most important details light work.

TOWNSHIPS.

Take, for instance, the new system of county government, including *townships*. It is generally supposed that townships are a Yankee invention, imported into North Carolina as a badge of subjugation and machinery for oppression. The truth is that they are a feature which for more twelve centuries, as all students of English law know, have marked that free society from which we have borrowed the substantial parts of our own. The most philosophic foreigner who has discussed American institutions, one whose decision upon various portions of our system seem, at the end of the forty years which have passed since he wrote, possessed of prophetic glance, (De Toqueville,) regards the *township* as a very corner stone of social liberty in this country, as well as in that from which it was introduced. It is known that a like subdivision of counties was recommended by Mr. Jefferson; and it is remarkable that in the early settlement of North Carolina the same ideas were carried out. They disappeared before the Revolution, probably under the growing influence of our slave interest. It deserves consideration whether that influence did not naturally substitute *the slave plantation* in place of *the township*. The *township*, according to De Tocqueville, is the germ of, and supplies vital force to the only free societies that have endured for centuries.

Is not *the plantation* its correlative in slave societies? The communion, free speech and local self-control of the one naturally grows, in the society at large, to a free Press, a Parliament, and the other noble institutions which mark the conscious presence and free movement of a self-governing People. The isolation, restraint and combined independence and refinement of a few, with the ignorance and constraint of the many, that distinguished *the plantation*, were, on the other hand, no less seen and felt to the extremities of the other society. What was *peace* in the one, in the other was mere *solitude*.

Merely suggesting then that *the township* of 1871 was the proper substitute in North Carolina, for *the plantation* of 1861, we submit that its introduction here, which in *carpet-baggers* was mere habit or instinct, in a North Carolinian would have been proof of profound reflection and wisdom. For the rest, the Township is a small and natural republic made up of *neighbors*,—of those who have great similarity of interest, and who ought to be, and generally are, friends. It controls matters in which they only are interested. Incidentally, it promotes public spirit, prevents consolidation of county matters at the court house, develops talent in rural communities, brings forward good material for public servants that would otherwise remain unknown, and, what observers of such thinga will not underrate, it affords, in the *organized* circle of its neighbors, that *machinery* for forcing forward and upward local merit, in the abscence of which promotion so much depends upon the reluctant favor of court house cliques.

Pressed by such reflections, which no doubt have often occurred to them, our opponents, whilst specifying this township system as a main objection to the present constitution, admit that it works well in other parts of our country, adding that this is *because they are populous, intelligent and wealthy*, which we are not! How very poor a shift this may be for an argument to countenance unfounded prejudices, appears by recalling the fact that *they were adopted where they now flourish, at times when those countries were thinly settled, grossly ignorant, and very poor! They* have grown to their present prosperity under the influence of this institution. Long centuries ago, when thick darkness covered all people, before printing was invented, when people who could read were as rare as in this country now are men who own their million of dollars, the Township took form. What its splendid story has since been history tells! What, the bright consummate flower that now adorns it in the spot where it sprung up, is seen and known by all men!

It is natural that there should be some yearning after *the plantation*, throughout North Carolina. Many virtuous people no doubt struggle with the forbidden appetite. One step towards its restoration would properly be the abolition of *the township*. We entered our protest against it. Under our constitution the township is very much under the control of the General Assembly. Its powers, until we become more used to the new county machinery, may be clipped very close by the Assembly, and then by degrees new functions may be added, until at last all merely local affairs be entrusted to its control. Such is our proposal, instead of its abolishment by a Convention.

The other county machinery is so obviously an improvement upon former methods, that its consideration need not detain us.—The difference between being taxed by our *representatives*,—those whom we voted for, and who have to come before us again, and *render an account*,—as is the case with county commissioners—is, beyond all measure, an improvement upon the former system of county taxation by an irresponsible and partially distributed bench of magistrates.

CHANGES IN LAWS.

It was to be expected that a number of shrewd lawyers, rendered skilful in such matters by old experience, in the defence of criminals, would be able to say something worthy of their reputation in defence of the old system of Law and Equity,—of Trespass, Case and Detinue, and other caitiffs,—as against the system recently introduced. Let it be remembered that *the Code* is no part of the constitution. *That* may be altered as the General Assembly shall think best. What the constitution provides, is only the abolishment of two sets of courts,—Law and Equity, and of the different forms of action. That it has done so, is a mighty stride in civilization! It is an improvement already adopted in a dozen of the most intelligent, wealthy and populous States of the Union. No one that has tried the change, has gone back to the former condition of things. Even in England, the cradle of the old forms, after mere *amendments*, (although upon an enormous scale,) had been tried with slight effect for forty years; the Lord Chancellor has in charge, with the sanction of the government, bills to effect this very purpose; and, what is more, to adopt the system of pleadings of the New York Code! The change is a very great amelioration, and in the course of a few years, will universally be so regarded. The benifits which the People receive from the constitution of 1868 in this one item, might well *float* that instrument, even if loaded with objections ten-fold greater than any which can be ascribed.

It may be pronounced, with great certainty that this change in the law as well as that of *townships* for *plantations*, are in more danger of being annulled now, than, if they escape this assault, they can ever be again. If unchanged within the next ten years, they will remain permanent tributes, to the instinctive wisdom of the convention of 1868. Meanwhile, no one will wonder if all middle aged and more advanced lawyers, much of whose capital consisted of familiarity with the hooks and crooks of that rusty, musty, dusty labyrinth,—hooks and crooks that concern justice to otherwise that by often serving to plague and defeat it,—are keenly sensible of the mighty loss that has been sustained, or should *indulge* in new Lamentations thereabouts.

GENERAL OBJECTION.

We greatly marvel that the Conservative party should have urged, as a general and most potent objection to the Constitution, that, with regard to many of its provisions—important ones at that—nobody could tell what they signified until they had received judicial construction; when the very same remark is no less true of the Constitution of the United States, and of every other Constitution that has been formed upon the continent. Have they not, each and all, been a theme for debate ever since they were made? Is not this notably true of the Constitution of the United States? Did not the people get together by the ears, and fight for four years, because one or other side (perhaps both) did not understand provisions in that constitution? Were not there passages in it that seemed contradictory, and required judicial construction, before any man could say what was meant upon the whole? Is it not true that the convention which formed it did not understand how it was to work in many important particulars, and indeed did not realize what part of it would be most prominent in the new society which it was to create?

No convention can remedy such defects. A new constitution may abolish errors in the one now existing, but it will be at the expense of creating new ones. It may safely be foretold that a great harvest for the legal profession will follow the work of another convention. Nobody will know where he stands. All the questions now at rest will be renewed. Other fees will be to pay. An *unbloody* revolution (such as we hope the approaching one will be) is necessarily a great feast for lawyers. All of them ought to be in favor of such. Whether the interests of the people in general are the same, is not so clear!

Upon this topic it may be added, that whilst the conservative party are fluent upon the matter of the want of perspicuity, simplicity and logic in the present constitution, and upon the doubt and confusion necessarily resulting therefrom, they have not enlarged upon the measure of the doubt and confusion to arise from a constitution, however worded, which is the offspring of an irregular assembly, called in a revolutionary manner. In connexion with the manner in which the next convention is to be called, the people have some interest in this view. That a vendor of land has not expressed his ideas in elegant language is certainly a defect in a deed, but, after all, is not one to be compared with the trouble which arises from his having *no title* to convey the land!

TAXATION.

One other topic urged for a call of a convention demands particular consideration. It is that which is most strenuously urged in this connexion: "The matter of high and ruinous taxation, which, it is, urged, can only be urged, can be avoided only a convention that shall strike out the obnoxious clause.

The present constitution requires (Art. 5, Sec. 4,) that the General Assembly shall provide for the prompt payment of the interest on the public debt "*by appropriate legislation and adequate taxation.*" It is admitted that no one can compel the General Assembly to impose such taxation, but the point is made that, as the constitution requires that members of the Assembly shall swear to support it, they are bound *in conscience* to do so.

It seems that this provision applies only to the *old* State debt, i. e., to that which was in existence when the constitution was adopted. The debt to arise after the adoption of the constitution was provided for in the next section. The method of providing for *its* interest is marked out there.

This rids us of the great bugbear connected with the many millions of the *new*, extravagant and fraudulent debt. The obligation of conscience in question does not extend to that. That there should appear, as upon the face of both the addresses of the conservative party to the people this year, there does, a suggestion that the conscientious obligation extends to both, shows how uncertain a thing the conscience of a politician may be. Probably some *brass* might be digged out of an address which insinuates a threat that if the people do not call a convention, the signers of the address, who are also members of the Legislature, will be constrained by their consciences—whatever under the circumstances this may mean—to levy a tax to pay the interest upon the whole debt—whether Swepson's or Littlefield's or whosoever.

But then, as to the *old* debt. How does that stand? Is there an obligation in conscience, under the oath in question, to lay adequate taxes to meet its interest promptly?

The answer is this: The provision in question is of no force for any purpose! If we were not under the constitution of the United States it might have effect. But it adds no force to the obligation already imposed by the constitution of the United States. Members are sworn to support the constitution of the United States as well as that of the State. The constitution of the United States recognizes the existence of the obligation of a contract, not only by forbidding the States to impair it, but also by enforcing it itself. It enforces it in various ways, according to the character of the person it deals with. As to most people it enforces this obligation through its courts; sometimes by ordinary execution against goods and chattels, and sometimes by *mandamus* against officers who are charged with official duties in levying taxas (say in counties and towns) for such purpose. There are other classes of officers whom it reaches only through their official oaths; i. e., operates only upon their consciences. Such are members of the Legislature. All of such are sworn to support that constitution. That constitution applies itself to the details of all contracts, and imposes an *obligation* of like quality, manner, form and condition. What is the character of its obligation *in conscience* in regard to officers who *cannot be* sued, is evidenced by its operation on those who *can be*. If county coupons are payable semi-annually, a *mandamus* may be had for the identical payment contracted for. If State coupons are payable, the obligation in conscience enforced by the official oath, is the same. Those may, in the case of the members of the General Assembly, be some *play of discretion* allowed by the United States Constitution. Such persons may claim that in deference to their condition, as set over the affairs of a *quasi* sovereign, requires that they are to have some discretion as to laying taxes; for instance, in times of great public want, &c., they are to consider the *appropriateness* of the proposed legislation, its appropriateness all around, so to say, i. e., to the wants of the creditors and the exigencies of the State.

We do not know how this may be. We are discussing a question of casuistry, and such questions are proverbially delicate and deceptive. It may be presumed, however, that the conscience of a man who was in fear of his constituents, would be apt to take some such turn. However this may be decided in regard to the constitution of the United States, it is very plain that the State constitution binds nobody's conscience who believes that a tax bill for payment of the interest on the public debt is, under the circumstances of the community, *inappropriate* legislation. He is required to do it only by "appropriate legislation." Let any gentleman who threatens the people with such a law be asked whether he regards such legislation as *appropriate* to the present circumstances of the times. If he says yes, then he is bound, even in the absence of such a provision as this, to levy the tax. If he says no, then the present section is without effect.

Two oaths to the same duty binds no more than one oath. The section in the State constitution is a mere nullity, for it commands a duty already commanded by the constitution of the United States, and this, too, in terms not so comprehensive.

HOMESTEAD.

Indeed, the tactics resorted to upon the point just discussed, by the supporters of the Convention, bring forcibly to mind the celebrated hunting expedition of the lion and the jackass, in which these tactics originated. The jackass was to set up an awful braying, and thereupon the affrighted game would escape from such jaws as he had, and fall into those of the lion lying in ambush. *Here*, this section about taxation is to play the part of the ass, whilst the affrighted people run off and fall into the trap upon the subject of *Homestead*, which has been prettily set for that purpose. This trap is coming to be very well understood, and requires no elaboration: The delegates are to be sworn not to touch the Homestead provision, and all the while, vows have been registered *to clean out the Supreme Court!* This will answer quite as well! The neat result will be that at the next Christmas many a present of homesteads will be made to honest creditors who now sit behind long-suffering judgments waiting to be let slip. The exceeding tenderness of Conservative consciences in regard to the oath upon "adequate taxation" &c., required the compensation of some indulgence. This has probably been allowed upon the Homestead question, where a certain anticipation of sales of that sort of property, coexist with solemn vows not to touch *the words in the Constitution* which guarantee them! If you take the conscience in too tightly in some quarters, you necessarily let it out too far in others!

REVOLUTION.

We have not said anything in regard to the *method* in which it is proposed to call this Convention. The point has been thoroughly discussed recently, as well as formerly, about 1854. We shall not elaborate it here. It is enough to repeat, that the method—i. e., a call under a vote of a majority of the Assembly—has been condemned by the General Assembly in times past as being *revolutionary*; that this doctrine was affirmed by resolutions of State Conventions of the Democratic party in this State before the late war; that it was acted upon in 1861 in reference to the call of the Convention of February, which did not sit; that language so extensively and notoriously discussed and construed, was adopted without change into the present Constitution; and that recently the Governor, and the Supreme Court of the State, have pronounced such a call to be unconstitutional and revolutionary. Those who wish for other authority upon this question than can be had from persons *who hold*, or from others *who seek* offices that are at stake in the call of a Convention, we refer to the late CHIEF JUSTICE RUFFIN, the greatest lawyer we have at any time had in North Carolina. He was so convinced that such methods as the present are revolutionary, that he volunteered, upon a memorable occasion, to come out of retirement, and, in an elaborate paper, so advise his fellow-citizens.

We quote his language:

"Two modes of amending the Constitution are provided: One through the agency of the General Assembly, proposing an amendment for ratification by a vote of the People, which need not be considered here; the other, by a Convention, called in a manner prescribed in the Constitution. It is obvious that in prescribing these two, all other modes are excluded by irresistible inference. In respect to a Convention, the words are, "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." *Letter of July 2d, 1866, to Mr. Conigland.*

Upon all points of law it may well be said of Chief Justice Ruffin, that to consult him, was, "as if one had inquired at the oracle." Those who disregard such an array of warning voices, appear to be regardless of social duty, and fatally bent upon mischief. We trust that the wisdom of the people at the election now at hand, will dissipate the cloud of apprehension which naturally arises in view of what seems to be, at any rate such recklessness.

If otherwise, it is well for sober men to consider what may be the result. If any of the present officials of the State relying upon Chief Justice Ruffin's opinion, believe their removal under elections held by virtue of the proposed Convention, to be revolutionary and illegal, they may regard themselves bound by their oaths of office to resist the same. In such event the President of the United States is bound by his oath of office, supposing him to be equally deferential to that as well as the other opinions quoted above, to interfere with a strong hand and suppress all the consequences of the contemplated movement. It was done in the case of a Northern State (Rhode Island) by a Southern President, Mr. Tyler; it may be done again in the case of a Southern State, by a Northern President. Does anybody doubt it? Who does not feel that if it occur, it will not only shock, but shake down public confidence in the stability of everything that promotes prosperity in, or that attracts capital to North Carolina?

The very mildest form in which the question can be put, is, can North Carolina justify herself in resorting to doubtful expedients under such circumstances,—will she trace her path upon the very edge of danger,—when all know that another inauguration of violence within her limits will necessarily result in so much confusion, and so irretrievable ruin? She could not so justify herself, even if the purposes proposed were more clearly right than now they seem to be. But when it is added, that there is, at most, no need for the constitutional reform suggested,—that, standing alone, many of these suggestions deserve condemnation rather than endorsement, it is a wanton thing to call such Convention! Improper ends by violent means, is simply preposterous!

The Republican party of North Carolina have the same interest in the general peace and prosperity that their opponents have. They desire to see no public trouble revived; they wish to aid in raising and recovering the exhausted energies of the State. They prefer that all disorder in the State, if possible, shall be put down by the powers of the State, and, in the first instance, inasmuch as an ounce of prevention is worth a pound of cure, they desire that *the people* shall forbid this threatening measure.

It is in this interest, that representatives of the Republican party from every section of the State, at two different meetings in Raleigh unanimously adopted the following resolution:

Resolved, That the Republican party of North Carolina, hereby protesting that the pending call for a Convention is unconstitutional, recognize that it will be most for the peace of the State that the people shall so decide at the ballot-box, and therefore recommend that an appeal be made them for that purpose, and that such appeal be prosecuted in the usual way, by a Campaign, and Candidates.

It is in this interest that we have been directed to address them. We trust that our designs herein may prove to be effectual.

In several important respects the Constitution is a great gain upon all that have preceded it. In the large majority of its provisions it is a good Constitution, in all, it is tolerable.

The State is in an untried condition; in that condition it is not easy to say what constitutional provisions in some respects may be best. An experiment has been set on foot at great expense. Let us give it a fair and full trial—the rather that if we were now under compulsion to make a constitution, no considerate man could be sanguine that such as we should adopt would answer even the purposes that we have in view. Let us walk carefully *forward* to our place in the future, avoiding, so far as we can all risks of failing to secure for our posterity a fair chance in the race now being made up for the fortunate men who are to come after us. Above all things, let us tread no step *backward*, upon pain of receiving the maledictions of future generations, as those who, with great opportunities for escape, fell under condemnation meet for such as are not discerners of the times.

With hearty good wishes for this State of ours, *new North Carolina*, and for all our fellow citizens, of every race—in this hour of danger to all, we earnestly ask that every man who wishes to avoid civil confusion, and every man who has not *buried* his energies and affections—who has not vowed to go mourning all his days over a dead past, will lend his aid to defeat this threatened *Convention, and Retrogradation, and Revolution.*

S. F. PHILLIPS,
Chairman, &c.
J. C. L. HARRIS, *Secretary.*

DOORS,
SASHES,
BLINDS,
Wood Mouldings, Stair Rails, Newels, etc.,
ENAMELLED, EMBOSSED,
GROUND AND CUT GLASS.

A large and well assorted stock of the above goods constantly on hand at the lowest rates. Order work promptly attended to. Builders and owners will find it to their advantage to get our estimate before purchasing. Special attention given to BLACK WALNUT and other FIRST-CLASS work.

Estimates and Price Lists furnished on application.

WHITLOCK & CO.,
254 & 256 Canal Street,
NEW YORK.
June 8, 1871. 2—wly.

MARCUS ERWIN,
ATTORNEY AT LAW,
Practices in all the State and United States Courts in the city of Raleigh, and will continue his practice in such of the counties in his old Circuit as this arrangement will