



AND

## North-Carolina State Gazette.

Quarrels are the plans of fair and peaceful peace,  
Unwaged by party rage, to live like brothers.

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## PENNSYLVANIA POLITICS.

(Continued from our last.)

Friends and Fellow-Citizens,

Here, then, let us ask, what is the evidence of the public sentiment—what is the test of the public interest—on the important subjects brought before you? As the last Session of the General Assembly was drawing to a close, the ultimate plot, to subvert the Constitution of the State, was deemed mature for execution; and measures were, accordingly taken, to obtain signatures to a Petition, for the call of a Convention. But this Petition (and we appeal to the inhabitants of every County for a corroboration of the fact) did not originate with the People, in thought, word, or deed; nor has any individual been yet bold enough, to avow himself the presumptuous author. Issuing, however, from the *Secret Tribunal* of the malcontents, it was clandestinely and partially circulated, in the remote districts of Cumberland, Washington, Franklin, Northumberland, and Mifflin; while in the city, and the populous middle Counties, it was seen only by a few confidential persons, until the publication of the 28th February last, in a Newspaper of Philadelphia, made a full disclosure of its contents, to the astonishment and insulted Community. The object being merely to catch the semblance of a popular wish for a Convention, and the wares, for that purpose being thus artfully set, the malcontents seemed, for a while, to be devoid of every apprehension of a defeat, and openly made arrangements, for the enjoyment of a victory. In the House of Representatives, a Grand Committee was appointed to receive the *solicited Petitions*. Before a single Petition was presented, legislative business of great moment (particularly a Bill to alter the law, respecting contempt of Court) was laid aside, under the declaration of a leading character, that "the approaching Convention, superseded the necessity of acting upon it." The correspondence of the members, in favor of a convention, invited support from their friends: evidently contemplating an immediate call; and forgetting, that their sacred trust was conferred, to preserve, not to destroy, the Constitution: While the correspondence of their opponents, anxiously claimed an expression of the sense of their Constituents, to avert the danger of an immediate dissolution of the Government. The Press, likewise, prematurely considered the event as realized; for, there, the time of assembling the Convention was actually referred to the month of August; the place of meeting was designated at Harrisburg; and Merchants and Lawyers, men of education and men of wealth, were indiscriminately excluded from the honors of the sitting.

But these visions of disturbed and sickly imaginations, were suddenly dispelled. Our Fellow-Citizens, of every political description, feeling, at length the necessity of a prompt interposition, hastened to rally round the Constitution, as the ark of their common safety; and now the malcontents beheld, with terror and dismay, the People, whose name they had craftily assumed, and whose indignation they had justly excited, rising in the native majesty of their power, and their virtue, to vindicate the dominion of the laws. In the course of a few days, by a spontaneous subscription, the list of remonstrants considerably exceeded the list of names, which had been collected, during a long, industrious, and secret circulation of the Petition; and when the Report of the Grand Committee was discussed, the comparative numbers were 4944 Petitioners, and 5390 Remonstrants, exhibiting to the actual view of the Legislature, a majority of 546 against the call of the Convention; independent of thousands, who could not transmit their Remonstrances to the seat of Government, before the termination of the Session.

Though the Malcontents had themselves appealed to the Community; though they had loudly deprecated every species of resistance to the sense of a majority; and though they did not dare, under such circumstances,

ces, to summon a Convention upon their own responsibility, or under the authoritative name of the People; yet, they could not patiently acquiesce in a result, so fatal to their personal and political speculations. The recent expressions of the public sentiment, could not be revoked, or suppressed; but they thought it might be evaded. The Freemen of Pennsylvania were, it is true, enjoying liberty, competence, and content; but, it was thought, they might yet be taught to believe, that they were oppressed, indigent, and wretched. The People of Pennsylvania did not wish to alter their Government, as a benefit to themselves; but, it was thought, that they might be induced to alter it, as a favor to their *Friends*. The gratitude, as well as the policy of the State, forbade the degradation of her Chief Magistrate; but, it was thought, that the inconstancy and credulity of human nature, would furnish instruments to accomplish it. To these, and similar suggestions, can alone be ascribed the extraordinary transactions, which succeeded the failure of the project, for an immediate call of the Convention. The same principle, that commands obedience to the sovereignty of the People, must always ensure respect to the depositaries of their authority; but, we can no more regard a few members of the Legislature, as the Legislature itself, than we can regard a few malcontents, as the body of the nation. We saw, therefore, with regret, but we repeat without apprehension, that even some men, who were the legislative honors of their country, appeared, at that time, to undertake the direction of the revolutionary engine. The House of Representatives, too, under their influence, assumed a tone of superiority; and, eventually, monopolized the legislative character of the state. For, the memorials recommending, as well as opposing the call of a convention, were addressed to both branches of the General Assembly (to the Senate, as well as to the House of Representatives); but the House of Representatives, alone, received and considered, approved, or condemned: denying to the Senate all information upon the subject, and all participation in the decision. In this paroxysm of revolutionary zeal, the report of the grand committee was produced, bearing indelible marks of the disappointment and chagrin of its authors. Contrary to the approved maxims of Republican Legislation, and in contempt of the exclusive right of the People, to originate every change in their government; the report controverts and derides the sentiments of the majority; applauds and enforces the sentiments of the minority; propounds abstract principles, which no honest man will dispute, draws practical conclusions which no wise man can admit; repudiates the constitution for supposititious abuses, or imaginary defects; and, finally, solicits the agency of a convention, to organize a political Millennium, upon the ideal scale of human perfectibility!

But here, let us pause for awhile, to recapitulate the various pretexts, which have been used, as a cover for the real designs of the Malcontents; and as an excuse, for the unauthorized interposition of a majority, of one of the Legislative Chambers.

1. It has been said, in general terms of reprobation, that the constitution is defective: but as it would be idle to expect a perfect work, from the hands of imperfect man; the remark carries with it neither censure, nor information. It may certainly be applied to every other form of government, past, or present, and we shall only indulge a pernicious vanity, if we suppose, that it will not be equally applicable to every future effort of human invention. But the Constitution of Pennsylvania was constructed on the model of the constitution of the United States, and has itself become a model for the constitutions of several of our sister states. Its basis and its superstructure are, however, pre-eminently democratic; for, while other constitutions exact the qualification of property from electors, as well as candidates, and transfer the choice of a governor, from the people to a department of the government: the

constitution of Pennsylvania establish the right of universal suffrage, declares every freeman eligible to every office, and reserves for the people themselves, the appointment of their chief magistrate. It embraces, likewise, every principle of liberty, every security for life, reputation, and property, every means of knowledge by the freedom of the Press, and every guard against the encroachments of delegated power upon popular rights, or co-ordinate departments, which the wisest statesmen could devise, and the most anxious patriots could desire. Still the constitution of Pennsylvania may be defective: but are the defects such as demand the corrective of a convention? Have they generated calamity, oppression, or disorder? Is there a coincidence of opinion on the points of defect, or the modes of reparation? And do we not incur the risque of losing a constitution, positively good for the mere chance of obtaining a constitution, hypothetically better? The formation of every social compact, depends upon mutual deference, and conciliatory sacrifices of individual opinion. No system of government was ever approved, in all its parts, by those who framed, or by those who adopted it. And we venture to affirm, that no new system of government, no scheme of modification, or amendment, will ever unite so great a portion of public sentiment and attachment in its favor as are united in favor of the constitution, under which the people of Pennsylvania now live and flourish.

2. It has been said, in the indefinite expressions of jealousy and alarm, that the delegated powers of the constitution, may be perverted and abused; but this, also, is a remark so general, embracing equally the legislative, the executive, and judicial, power, that it strikes at the very existence of civil government. In truth, the use of power is essential to the order and peace of Society; and the hazard of its being abused, must, therefore, be encountered. But every well regulated system, while it confers power, exacts responsibility; and no government can, consistently with the other important objects and operations of its institution, be more efficient in this respect, than the government of Pennsylvania. Thus, the members of the House of Representatives must annually account to their constituents. The Senate annually sends one fourth of its members, in regular rotation, to the ordeal of an election. The Executive Magistrate undergoes a triennial investigation of his conduct, at the bar of the people; nor can he enjoy the favors of popularity, beyond a limited period. The Judges are constantly subject to the censorial power of impeachment, and to Legislative Addresses for their removal: while the subordinate officers of the state are amenable to the Governor and (in common with himself and the Judges) may be impeached and dismissed, for misconduct in office. If with such precautions, there is not safety in the delegation of power, to what substitutes can we more confidently resort? Let it not be answered, to the direct and constant agency of the people; for, that is impracticable. Let it not be answered, to the exclusive authority of the Legislative Agents of the People; for, we know that Legislative agents, may feel power and forget right, as well as Executive and Judicial Magistrates. But, rather let us bow with reverence to the decrees of Providence, thus mingling with all its bounties to mankind, a portion of bitterness and alloy.

3. It has been said, in terms of indignation and disgust, that the constitution tolerates the common Law; and is, therefore, inconsistent with true liberty, and genuine republicanism. On no occasion has the denunciation of the Malcontents betrayed more ignorance, or more wickedness than in the attempt to despoil this venerable Code of the affections and confidence of the People. In depicting the common Law, they have ransacked the cells of Monks; they have pillaged the lumber of Colleges: they have revived the follies of a superstitious age; and they have brandished the rigours of a military despotism; but, in all this rage of research, they

have forgotten, or concealed, that such things enter not into the composition of the common law of Pennsylvania, for the constitution tolerates only that portion of the common law your ancestors voluntarily brought with them to the wilderness, as a birth-right; and which the Patriots of the Revolution bestowed upon us, as a Charter of privilege and benevolence. Let us not, therefore, be ensnared by prejudices, nor be deceived by the mere similitude of names. Every nation has its Common Law. The Common Law of every nation, is the accumulated wisdom of its best men, through a succession of ages, settled into known rules, maxims, and precedents. The Common Law of England, stripped of its feudal trappings, is the admiration of the world. The Common Law of Pennsylvania, is the common law of England, as stripped of its feudal trappings; as originally suited to a colonial condition; as modified by Acts of the General Assembly; and as purified by the principles of the Constitution. For the varying exigencies of social life, for the complicated interests of an enterprising nation, the positive acts of the Legislature can provide little; and, independent of the Common Law, rights would remain forever without remedies, and wrongs without redress. The law of nations, the law of merchants, the customs and usages of trade, and even the law of every foreign country, in relation to transitory contracts, originating there but prosecuted here, are parts of the Common Law of Pennsylvania. It is the Common Law, generally speaking, not an act of Assembly, that assures the title, and the possession, of your Farms and your Houses; that protects your persons, your liberty, your reputation, from violence; that defines and punishes offences; that regulates the trial by jury; and (in a word comprehending all its attributes) that gives efficacy to the fundamental principles of the Constitution.

If such are the nature and the uses of the Common Law, is it politic, or would it be practicable, to abandon it? Simply because it originated in Europe, cannot afford a better reason to abandon it, than to renounce the English and the German languages; or to abolish the institutions of property and marriage, of education and religion; since they too, were derived from the more ancient civilized nations of the world. Messrs. Jefferson, Wythe, and Pendleton declared, in reference to a revision of the code of Virginia (for all our sister states have adopted the Common Law of England, differing only in the degree and the manner of the adoption) that "the Common Law of England, by which is meant that part of the English Law, which was anterior to the date of the oldest statutes extant, is made the basis of the work. It was thought dangerous to attempt to reduce it to a text; it was therefore left to be collected from the usual monuments of it." (Notes on Virginia, p. 265.) How chimerical, then, must be the project of calling a Convention, to reduce the Common Law, not to a statutory detail, but to a constitutional text! How superfluous the trouble, and the expence, since the Legislature itself already possesses a competent authority to reform every abuse, to remedy every defect, and to controul every operation, of the Common Law!

4. It has been said, that the judges "under colour of the Common Law" have exercised the most daring tyranny, and violated the Constitution and laws of the State; and hence the necessity of a Convention has also been inferred. This assertion appears under the signature of Mr. Steele, the President of the Senate. It involves eleven of his fellow Senators (Republicans of inflexible political and personal integrity) in the imputation of perjury, for voting in favour of the impeached Judges; and it charges those Judges with a crime, for which they had been fairly tried; and of which they had been lawfully acquitted. But we will not enter into a discussion of the question, to which the charge refers, whether the Judges

of the Supreme Court, have a constitutional power, to punish *contempts of Court*, by the summary process of attachment? Nor will we even state the essential distinction, between a wilful violation of the Constitution, which could alone be criminal, and an honest error in judgment which cannot be imputable, or punished, upon impeachment as a crime. These might be proper grounds of enquiry in estimating the truth, as well as the *decency* of Mr. Steele's publication; but in the abstract enquiry, whether the conduct of the Judges, furnishes an adequate cause for calling a Convention, it is sufficient to observe, that if Contempts of Court, ought no longer to be punished by attachment, the Legislature may, by their own authority, modify, or abolish, the process, without any additional sanction, from a constituent Assembly: And, we presume, that the Malcontents will not avow the design to render a bare majority of the Senate, competent to a conviction on impeachment; lest it should be seen, that the unanimity of a Jury, in other criminal prosecutions, is, also, obnoxious to their views, and equally the object of revolutionary reform.

5. It has been said, that the constitutional power of appointment to office, bestows on the executive the means of acquiring a dangerous influence; and that the constitutional negative of the Governor, upon legislative propositions, has been employed to retard the progress of political improvement. But the power of appointment to office, can only produce a dangerous influence, where those who enjoy it, may be served by gratitude, yet cannot be injured by resentment. In a free Republican Government, the power of appointment to office can never be made a dangerous instrument of personal ambition; since those who exercise it, are as dependant upon the candidates whom they reject, as upon the candidates, whom they accept; and the number and activity of the former, will forever exceed the number and activity of the latter. The transactions of the day, evince the truth of this political position. The clamour of discontent is loud and virulent, against the present distribution of offices; and an exercise of the power of appointment, in opposition to particular interests, has, obviously furnished a signature for invective, and a certificate for imposture. But when it is said, that the Executive ought to be deprived of this power, we should, likewise, be told, where it can more safely, more usefully, be deposited. The secret has not yet been divulged: but, Fellow-Citizens, beware! There is not an honest politician, who, hearing the cabals of elections for Federal Senators, for State Treasurers, for Bank Directors, will readily consent to endanger the purity of the Legislative character, by enlarging the sphere of its patronage, in the appointment to office.

Nor can the qualified negative upon legislative proceedings, however beneficial to the public, advance the popularity, or influence, of the Chief Magistrate. It is a power wisely created, as an additional security, for the preservation of the Constitution, from the encroachments of a Popular Assembly, whose numbers serve, at once, to abate caution, and to diminish responsibility; for the protection of the co-ordinate departments of government, from the absorbing tendencies of legislative authority; and for the prevention of sudden and dangerous innovations, upon the laws and habits of the community. For all these purposes, you have seen a firm and honourable interposition of the power, during the present administration; but you have, also, seen, that (raising a host, in opposition to an individual) no respect for the power, as vested by the constitution; no deference for the claims of conscience, as involved in exercising it; no consideration of personal wisdom and worth, as due to the Magistrate himself; nor any sense of decorum, as inspired by his constituents; could deter the Malcontents from resorting to this ground as the strong hold of their operations, against the official reputation of the Governor. Let it be asked,