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KENT NEWS

CHESTER TOWN, Md.

Saturday, May 24, 1851.

The New Constitution.

We have attentively read and considered the new Constitution and find so little to approve and so much to condemn that even had the Convention seen fit to grant us the period for reflection designed and prescribed by the Legislature, which called it, we should scarcely have found space or time to discuss and expose its evils as we could wish. We shall, however, with as much brevity as possible, allude to those provisions which appear to us most pernicious, and which we believe imperatively demand its rejection by the people.

We regard as its most objectionable feature, the structure of the Judiciary. We cannot well conceive how the organization of this, the most vital Department of the Government, could have been made worse. We call the attention of the thinking and conservative portion of our readers to a contemplation of its evils. It would be superfluous to declare that the Judiciary involves more important interests than does any other Department. Every citizen feels and knows that the protection of his own property, liberty and perhaps his life, rest in the independence and integrity of the Judiciary. Now we ask the reflecting man, in view of the vote which he is to give on the 4th day of June, whether to the proposed Judiciary, he would in all cases, be ready to submit his cause.—Who that *knows* the manner in which our popular elections are conducted—the pressure of party *drill*—the strength of party attachment—the rancor and bitterness which characterize party contests—can believe that Judges taken as they will and must be, from party ranks, can be independent and impartial? The Judge will be nominated by party caucusses, and want of necessity obey the behests of those by whom he is chosen. We care not how honest may be his native impulses. Chosen by the people for 10 years, and re-eligible; he will scarcely be warm in his seat before the hope of re-election will be cherished. The people among whom he is called to administer justice are divided into two classes—his political friends and his political enemies. In the canvass through which he has just passed the one has advocated his claims and vindicated his character—the other has disparaged the one and perhaps traduced the other. Motives of gratitude, of resentment, and of self interest, all conspire to bias his judgment, and vitiate his decisions. We are met by the argument of the virtue and sovereignty of the people. We contend as earnestly for both as do those who assume to be their exclusive champions. We admit that the people are both sovereign and virtuous—we admit their abstract right to elect their Judges, or to elect each and all officers of the Government. But we question the expediency of their so doing. The end of Republican Government, "is the greatest good, of the greatest number." The object of such governments is the substantial welfare of the people—and if this can in any case, be the better obtained, by a departure from the elective principle, we say that those who advocate such departure are better Republicans than those who maintain the abstract principle. If the patriotic citizen believes that while the right of popular suffrage is the great safeguard of our liberty, that yet popular elections are attended with many evils—it is his duty to guard the administration, of Justice, as far as possible, against those evils.

The advocates of the elective Judiciary say that the Judges, should not be independent of the people—but that they should sympathise with the people. A more pernicious fallacy was never advanced.—We say that the Judge *should* feel himself independent of the people and should not sympathise with them. He has no right to sympathize—sympathy implies bias—prejudice. He implies a feeling in favor of one individual, or one class, and against another individual or another class. The Judge should have but one great motive of action—the wish to do justice. This is his duty, his whole duty. His conscience, his oath and every sanction of his office, require him to do justice. Why then, should he have any sympathy with the people, or be dependent upon the people? We believe that such sympathy and such dependance, would prove the prolific source of a weak, vacillating, time-serving and corrupt Judiciary. For there can be no worse tyranny than that of the prejudices and passions of the people, and of these, the *sympathizing* Judge would become the organ.

We are pointed to the example of other States—in none of which, so far as we are aware, has the elective Judiciary been properly tested. Upon its first establishment in any community great care will be taken to secure capability and integrity. The warnings of those who oppose the elective system, and the misgivings of many of its advocates, will alike tend to produce this result. But when the spirit of party once fully enters the canvass, these aims will be lost sight of. The hope of party triumph and supremacy swallows up every other consideration. And when in the party caucus, two candidates shall appear—ONE, the man learned in the law, of inflexible integrity, firm and undeviating in the pursuit of right, but reserved, in his deportment, and keeping aloof from the strife of party—the OTHER inferior in capabilities, yet of courteous and popular bearing, ardent in his political views, untiring in his party efforts and boasting of his party services—it will require no divination to determine which of the two will be selected as the Judicial standard bearer.

We have thus hastily alluded to the evils of the principle. The details of the new Judiciary, are equally objectionable. We not believe that the best legal acquirements can be obtained for the limited salary prescribed by the Constitution. The labors of the Judge are greatly enlarged by the fact that he sits alone, and hence has not the aid of united counsels. The Judicial Circuit is very slightly lessened in extent throughout the State; (in our Circuit, not at all, and after the abolition of the Court of Chancery, to take place in 1854) Chancery jurisdiction with all its difficulties and intricacies becomes vested in the Circuit Judge. We do not believe then, that gentlemen learned in the law, and in the enjoyment of lucrative practise will be induced to undergo the vexations and discomforts of an elective canvass, for the oppressive duties, moderate pay, invidious position, and very doubtful honors of a Judgeship for the period of 10 years. And besides, the administration of justice must be subject to all those delays and uncertainties which the absence, or interest of the Judge may interpose to the sitting of the Court.

Such are some of our many strong objections to the structure of the Judicial Department. We have no hesitation in saying that they are with us unsurmountable, and were there no other mischievious feature in the Constitution we should oppose it on this account alone.

We object to the basis of representation, because it virtually places the Eastern Shore and the smaller Counties in the power of the City and the commercial Sections of the State.

The House of Delegates will be composed of 74 members, of which number, Baltimore City and the Counties of Baltimore, Harford, Carroll, Frederick, Washington, Alleghany, and Howard, which are more immediately identified with the city, in interest, and diverse from the other sections of the State, will have 39 or a majority of 4. After 1860, a new apportionment is to be made upon the basis of population. We cannot doubt that the counties above mentioned must greatly outstrip, in the increase of population, those of the Eastern and lower Western Shore. Then in the Convention, should it be called, by the people in 1861, there can be but little doubt that they will hold the majority, even estimating the Senate.

It is well known that the slaveholding interest is weak, in the former section of the State, while in the latter it constitutes a material, and important element of wealth, social comfort and political influence. This diversity will be apparant to any one who will examine the recent census. The anti slavery feeling is a strong one when once aroused and we may well apprehend that the majority of the Convention, of 1861, may have the *will* as they will certainly have the power to disturb the existing relations of master and slave.

The Western section of the State, is also deeply interested in erection of Improvements and although the new Constitution imposes restraints upon the creation of a Public Debt, for such purposes, what guaranty can we have that these wholesome provisions may not be repealed by the interested majority in the Convention of 1861. The advocates of the new basis of Representation, in the lower branch, rely upon the Senate for the supremacy of their political position. But what guaranty can they have that by a subsequent convention, in which, as we have shewn, the Western counties will have a majority, the Senatorial representation will not also be changed and the popular principle become the basis in that body. It is easier to relinguish power than to recover it when once lost, and the citizen of the small counties who believes that the popular basis of Representation would be prejudicial to the interests of his section, should now oppose the first step towards its establishment by refusing his sanction to a Constitution which prepares the way for that result.

Another evil feature of the New Constitution is in that provision, which directs the Legislature to exempt from execution a certain portion of the property of a debtor not exceeding $500. We regard this exemption as directly injurious to the interests of the very class designed or supposed to be protected by it. The poor man's capital is his credit, for without credit, he cannot successfully prosecute, any of the departments of his business. Now is it not apparent that this must be impaired when the creditor loses his claim to so large an amount of the property of the debtor. It must effectually destroy credit so far as it concerns the poor man who is most to be benefitted by it and reduce him to the embarassments of the strict Cash System. The Merchant or tradesman who knows that perhaps the entire property of the person applying for credit will be exempt from his legal claim and that he can have no security for the payment of the debt except that furnished by the honesty of the debtor, an honesty exposed to the strongest temptation which the law can afford to the commission of frauds will very wisely and justly refuse to grant credit.—Thus a twofold evil must result, first in the destruction of credit, & secondly in the embarassment of trade. We honestly believe that this feature of the New Constitution will prove entirely prejudicial to the very class of men whom it is intended to protect.

For kindred reasons we object to the abolition of imprisonment for debt—which under our present system is scarcely ever carried into effect except in cases where fraud in the debtor is apparent or may strongly and reasonably be apprehended.

We believe imprisonment for debt to be a wholesome provision, because it operates as a terror, to evil doers, and although seldom executed becomes a most potent means of protection to the creditor. We cannot perceive either the Justice or expediency of weakening those legal influences by which men are constrained to perform their contracts or regard their obligations. We do not see why the confiding creditor is not as much entitled to protection and sympathy as is the unfortunate debtor.

It is a hardship, though seldom felt, that the honest and unfortunate debtor, should for a time be deprived of his personal liberty—but it will be an equal if not a greater hardship, because frequent and general that the honest creditor should be deprived of his most powerful protection against the fraud of the dishonest debtor.

We object to the new Constitution, because in providing for the election of all officers by the people. The strife and bitterness of party elections will be greatly increased. Every man in the community will be an aspirant for office & we shall thus be involved in a constant state of political ferment.

We are opposed to this Constitution, because there is no provision for its alteration in any particular, for the long period of ten years. The result of which will be that however odious, pernicious or oppressive any of its provisions, and however strongly the people may desire their repeal, there is no means, short of a revolution, by which they can be dispensed with.

The organic Law of Maryland, after the lapse of three fourths of a century, has been remodelled, from first principles.—Scarcely a plank of the old fabric is left us. New principles and theories of Government have been introduced. A large portion of the Convention believed the changes to be *unwise*—and yet however ill adapted they may prove to the political or social condition of the State they are fastened upon us irrevocably for ten years, or can be set aside only by the force of revolution.

These are some of the odious features of a Constitution which the people of Maryland are called on to sanction within three weeks after its passage, a Constitution which the Convention refused to make public through the ordinary and practical mode of communication (the newspapers of the State) which we venture to say will not be seen by one third of the citizens, of the State, and which they are therefore compelled to vote for blindly, and on trust or indignantly reject.

The Convention certainly placed the climax upon its folly by virtually refusing to submit the work of its hands to the people. The newspapers of the State are the only effectual medium by which it could obtain perusal and consideration and the Convention in refusing to send it forth by this medium has to say the least given a very equivocal evidence of its dispositions to have its provisions understood. Of the 100,000 copies which they have caused to be printed designed for circulation among the 70,000 voters of the State, four fifths may be considered as no better than waste paper.

For the present our limits compels us to suspend the consideration of this instrument. We think that we have pointed out enough of its evils to cause thinking men to pause before they sanction it, and this is all we wish for if the conservative spirit of Maryland is once awakened to the knowledge of its radical features, we have no fear but that they will consign it to an oblivion so deep that the "hand of resurrection shall never reach it."

☞In our paper of last week, we gave a report of the proceedings in Kent county Court, under writs of Habeas Corpus in the case of John Ford and Nicholas Murphy, charged with the murder of the Cosden family. We regret to find that in our report we were mistaken as to the remarks of the Court in regard to the propriety of receiving the declarations of Drummond, in evidence.—The following is a more correct statement:

The Court remarked that a magistrate had a right to issue a warrant, upon an affidavit, stating probable grounds of suspicion that the party charged had committed an offence—that after the arrest and prior to the commitment it was legal and proper for the magistrate to examine the accusing witness as to his suspicion and the grounds of his suspicion. In this way testimony was admitted and properly admitted according to the books which would not be legal evidence before a Jury on a trial in chief. In these examinations magistrates were often very loose and admitted a great deal of testimony which would not be used before a jury. But the Court were of opinion that as a general rule testimony would not legally be admitted on such examinations, which would not be allowed on a trial in chief. Where the books speak of its being the duty of the Justice to commit where there is evidence to prove probable grounds of suspicion, they do not mean to say that a different sort of evidence from that, proper before a jury is to be allowed to establish the probable ground to the satisfaction of the Justice; but such remarks are to be considered as alluding to the degree rather than the sort of proof. On the present occasion the Court have a very strong conviction that the State cannot give in evidence the declarations or confessions of Drummond, as proposed by Mr. Cann, but to allow time for the examination of authority, on this point, they will adjourn until Thursday.

On Saturday last the Judge reviewed the authority, and in particular, the decision of Chief Justice Marshall, in Burr's case, and announced his opinion that the declarations of Drummond (now in jail) were inadmissible.

The final decision of the case, on the application of Ford and Murphy, was postponed to allow the State to procure the attendance of additional witnesses whose peculiar circumstances had prevented from attending heretofore.

New Hampshire.

A Convention to revise the Constitution of this State closed its labours several weeks since, and the Constitution framed by that body was submitted to the people sections, so that the good sections might be adopted and the converse rejected, but the people, when they came to the polls repudiated every section. A distinguished Reformer in Maryland has said that if the present Constitution be rejected the word "Convention" will not be heard again in Maryland for two generation.

The Election.

The voters upon the ratification or rejection of the New Constitution, are to assemble in their respective election Districts on Wednesday the fourth day of June, for the purpose of expressing their opinions. Let them all turn out.

☞We received some Straw Berries from our Post Master that are curiosities, some of them measuring 4 inches in circumference.

Extraordinary Change of Temperature.

Yesterday at 2 o'clock P. M. the thermometer stood at 85° Farenheit, wind W. and N. W. blowing violently. At 5. P. M 79° wind N. N. W. At 8½ P. M. 68° wind N. At 10 P. M. 61° and the wind blowing a gale. This morning at 5 o'clock 52° wind N. E. It will be seen from this, that during an interval of 15 hours, the temperature has fallen 33°!!!

WASHINGTON COLLEGE. S. T. R

COMMUNICATIONS.

For the News.

MR. EDITOR.

I have observed an article in the last Herald, from some wise person who signs "A Reformer," and hails from Centreville. I presume he never read the old Constitution, does not understand the new, makes assertions of facts, of which he is ignorant and seems puffed up with a sort of confidence and importance, that would better become some aged, intelligent and influential citizen. It is not my purpose to answer his production, as the good sense of its readers, must have detected its fallacies, but only to expose some of its errors, as examples of the rest.

Clerks, Registers, and Sheriffs are ministerial, not Judicial officers, and there is about as much similarity in their nature and duties, and that of the Judiciary, as there is between, "a hawk and a hand saw." This writer, alledges the landed and slave interest have 12 majority in the House over Baltimore and the upper (or western) section of the State, for we use these terms as convertible. But in naming the counties he omited Carroll, and the new county of "Howard," whose interests are identified with the wertern section.—These make the western interest 36, and it is well known that Harford has few slaves—and her Delegation voted with the upper section—her 3 added would give 39 a majority of 4 to that interest. The writer also contends that it is immaterial whether there be but one Judge or twenty on the Bench—it is virtuably the decision of one man, "for they must think alike," where the "opinion is unamimous." Verily, this is the age of progress and of wonder—fortunately "leather medals" are not in vogue, or the price of the material might be raised.

We have made inquiry and learn that the one Judge decision of N. York and Pa. are not reported, but only those of the Superior Courts consisting of a number of Judges—so much for the writer's knowledge of law.

But the whole tenor and tone of the article of "A Refomer," betray such a palpable ignorance of the genius and frame of our government, and of the checks and balances, necessary in safe and properly regulated government—such a confounding of things entirely dissimular, and so obviously demagogical, that it would be a waste of time to expose it futher. He probably has a plenty of leasure on hand, and he may as well employ it in *fan-faronade*—sound and bluster, as any other mode. This may do until he cuts his "wisdom teeth," and learns that "discretion is the better part of valour."

F.

Written for the Kent News.

The Banks and the Constitution.

The 45 Section of the 3d Article of the new Constitution, prohibits the incorporation or renewal of any Bank Charter, except upon the condition that the Stockholders shall be personally liable to the amount of their Stock, in addition to the loss of their Stock, in the event of a failure. The Charter of Banks, pledges the Stock, for the payment of debts and discharge of liabilities—but this new instrument steps in and super-adds the personal liability of the Stock-holders.

I am confident that no new Bank will ever be established, and no Bank Charter be ever renewed, upon such onerous and ruinous conditions. What man who subscribed for Stock, would, in adddition to its loss, oblige himself to pay out of his private funds, an equal amount of money? This would be ruinous to most men, and no man would invest money at 6 per cent, (that being about the average of interest received from Banks by Stock-holders,) in Bank Stock, if be risked double the principal necessary to produce 6 per cent interest. The consequences of this provision, will be:—

That, after the expiration of the present Bank Charters, there will be no Banks and the whole business of accommodations will be in the hands of irresponsible brokers, who will charge as much interest as they please. The consequences flowing from an extinction of all the Banks, must prove disastrous to the Farmer, Merchant, and Mechanic. The prices of produce must necessarly fall—and a serious blow will be inflicted upon the community.—Where the Charters are about to expire, the Banks must necessairly, begin, very soon to wind up their affairs, and ruin of such a course, can be better conceived, than expressed.

The Charter of the Bank at Easton will expire in the year 1855, and as she will have no power to collect debts after that period, she will be obliged to commence at once to wind up her affairs, and collect all her Debts. A great deal of money is due to this Bank from the Eastern Shore Counties and a prompt proceeding to call in her Debts, must involve many persons and families in deep embarrassment, if not ruin. Appeals, when taken on Judgments, delay the recovery of money, and the law of self preservation, will require the Bank at once to begin the unpleasant operation of winding up its business. The whole business of the Country will receive a shock, if this Constitution be adopted, from which it will require years to recover and after immense loss and sacrifice. The operation of this extraordinary provision in the new Constitution may be illustrated as follows:—A man dies, leaving a widow and several minor children, for whom she is Guardian. They realize from his estate $1000. The widow puts $500, of this money in Bank Stock, which yields about 6 per cent, but she receives her dividend every 6 months to enable her to live. She can can have no control of the Bank and cannot be in any fault about its management. The other $500, she loans on mortage and by frugality she supports her little family. The Bank fails—the new Constitution, takes the $500, on mortgage to pay for the mismanagement of others, she has lost her Bank Stock—is now deprived of her money on mortgage and she is left friendless and in poverty and want, with her innocent little ones around her, can any one, who takes an enlarged view of the country, its business and operations support a Constitution, containing such a provision.

A WORKING MAN.

For the News.

New Constitution.

MR. EDITOR.

The multiplicity of Elections, as provided for in this instrument, would, of itself induce me to oppose the ratification of it. It would almost seem that the Convention intended these elections of Constables, Justice of the Peace and supervisors, Orphans' Courts and Surveyor, as a Burlesque, on elections. Let us examine and ascertain how many Candidates will likely to be out at one election in our little county. An election is to be held for the following officers:—

Justices of the Peace—say 6 for each district	18
Levy Court	5
Constables—5 for a district	15
Supervisors—about 10 for each district.	30
Surveyor	1
Lottery Commissioner for the State	1
Sheriff	1
Delegates	2
	73

Making 73 Candidates on one side—now assuming an opposition for each office, the number of Candidates will be 146. Upon an average, there are 1150 votes polled. This would make a candidate for every 8 votes. Can anything be more ludicrous? Could the Convention, expect the people to ratify a Constitution containing such a provision?

The Eastern Shore with her peculiar interest, has been reduced to a cypher. To make the advantage greater to the Western Shore, and to impair our relative weight and influence—a new County, with almost an exclusive White population, has been created by the New Constitution, callled "Howard County"—and provision is also made in it for making two counties out of Alleghany? The time may not be far distant, when the Western Shore will claim both the Senators of the United States, there being no Constitutional prohibition, and having the *power*, who can doubt, the *will*, when any resistance we might offer would be as unavailing as the wind.

I have come to the conclusion, from these considerations, to oppose the new Constitution, and to look to the Legislature, who will be enlightened and instructed by the proceedings and Speeches, of the Convention, and will, make all salutary and needful reforms.

EXAMINER.

For the News.

New Expenses.

There are a number of matters in the new Constitution, which all will approve; but let it be remembered, that in most of these respects, the new, is but a copy of the old Constitution. The Bill of rights is almost an exact copy of the old, except in a few particulars, which do not improve it, but are exceptionable. Let anyone compare the old Constitution with the new, and the chance will be, that nearly every thing he approves to the latter will be found in the former.

But there is one thing in the new Constitution, which will increase considerably, the expenses of the State, and thus defer the extinction of the State Debt, and consequently fix taxation, longer upon us. It provides that the Legislature shall sit in January 1852 and January 1853, two annual Sessions, without limitation as to the time of sitting. These two Sessions, with the accumulation of busines, that the new order of things will necessarily bring, will probably be extended to the middle or 20th May in each year—double the time allowed now for the Session. A single session costs from $50,000 to $60,009—and the additional expense of those two prolonged Sessions, will be from $100,000 to $120,000. If the State were out of debt and had money to waste, she might indulge in these experiments, but as the people are bowed down by Taxation, it is no time to experiment, at such immence sacrifice.

A FARMER.

For the News.

Free Negroes.

MR. EDITOR:—

Under the new Bill of Rights; 21 Article, the Legislature have absolute power to banish or hang, all free negroes in the State, and to confiscate all their property. The power to *dispose* of them at pleasure, in any manner they might see fit! What would become of the Land-Renters if all free labour is cut off? and what would the prices of Land be? It is easy to forsee, that consequences, ruinous to others, may be produced by the exercise of the power contained in that article?

Q.

Married.

In Baltimore, on Monday last, by the Rev. Wm. T. Wright MR DANIEL STRANBERG, of this place, to MISS ELIZA J. SHEPHERD, of Baltimore city.

[With the above notice we received quantity of delicious cake. We are sure the "*happy couple*" who at such a time think of the printer must have kind and affectionate hearts and a long course of happines in store for them. May their honey-moon last forever.]

DIED.

At his residence in still Pond, on Monday the 19th Inst, Col. Thomas Hepbron, aged 63 years, a good citizen, an honest man, and in the full assurance of life and immoriality in a better state of existence.

At the residence of her husband, Mr. C. W. Spry, near New Market, on the 20th Inst., after a lingering illness, Mrs. Spry. Her death will be severely felt by a fond husband and friends, and her place, the respect and affections of her neighbours, will not soon be filled. May she rest in peace and enjoy the realities of a bright and glorious existence.

Hats.

LEGHORN, Fancy Braid, China Pearl, and other varieties, just opened by

W N E WICKES.

May 21, '51.