I hold no brief for the Convention of 1868, the manner in which it came into being, or the method by which the ratification (?) of its work was brought about - on the contrary, I hold in sacred memory the men who opposed both. I recognize, however, the truth that, after forty five years of a State's history, it is the part of wisdom to test the work of the past by its practical results. The Constitution of 1868 has undergone a number of amendments - several by legislative proposal and popular adoption, and others by the work of the Convention of 1875, receiving an overwhelming popular endorsement. In those respects, wherein it was specially unsuited to the genius and wants of the people of the State, or offended their traditions and imposed burdens upon them, it has been carefully pruned by wise and skilful statesmanship. Read in the light of the conditions existing at the date of its making, and of the personnel of the majority of its membership, we are surprised to find that more radical changes in our fundamental law were not made. I do not care to enter into any discussion of its merits or its ~~then~~ objectionable features. There were, in the Convention, several men of learning and experience, safeguarding, as far as possible, the rights of our then largely disfranchised people. The effect of their influence may be ~~found~~ seen in the Constitution. It is worthy of notice that of the thirty seven sections of the Bill of Rights, twenty two are either in the same, or substantially the same, language as they are found in the Constitution of 1776. The changes and additions relate to subjects settled by the result of the Civil War, such as slavery, the right of secession, etc. The twenty second section, found for the first time in our State Constitution, provides that "The privileges of the writ of Habeas Corbus shall not be suspended." This imperative and unconditional language very soon confounded those who put it in the Constitution and served the citizens of the State a very good turn. I hardly think it will be proposed to remove or to weaken it. It may,

in some day of even a "militant democracy" serve as a shield to protect the personal liberty of some citizen from the passion of the hour. With all of its beneficent possibilities, we should not forget the lesson taught by the past, that Democracy and Liberty - either civil or religious - have not always been handmaidens, or come through the corridors of time down to us as twin sisters. But it is said that the word "rebellion" found in Section six, is offensive, and that a Convention should be promptly called to remove it. Probably there is no man in the State who holds more strongly than myself to the conviction that, as applied to the men of 1861, and their political and military action, this word is absurdly inaccurate - to put it mildly. I hold that, in the words of a brilliant and loyal Carolinian, that "To call their conduct rebellion is to speak ignorantly; to call it treason is to add viciousness to stupidity." I would vote cheerfully to strike it out of the Constitution, but I suggest a careful examination of this section, as it stands, with the amendments made to it by legislative referendums of 1872 - 73 c. 85; 1879 c. 268. While the offensive word can be stricken out, it will be observed that some other word of more accurate and less offensive signification must be inserted. The section can not safely, in other respects, be changed. Again, it will also be observed that the people of North Carolina, after they had "come to their own" dealt with, and made additions of vast import to the State - to this section - and, as it now stands in the Constitution, it incorporates and declares the fixed opinion and settled purpose of our people in regard to a question which it would be a calamity, in many ways, to bring into controversy. There is another thought in this connection - if the wise, patriotic and loyal civil leaders and gallant soldiers, in respect to whose action this language was used, a very large majority of whom have passed to their reward, did not feel that justice to themselves and their companions demanded that the Constitution, in this respect, be amended - I can not think that loyalty to their memory imposes upon us any instant imperative duty to call a Convention to do so. I think that the cost of doing so

may be much more wisely applied to educating the children of the State and so teaching them its history, illustrated by the splendid achievement in the field, and in civic life of those men. Political, vicious and false epithets, applied to the conduct of a great people, in their hour of defeat, will do them no harm. Already the "avenging pen of history" is ~~in~~ performing its mission in the establishment of truth and justice to these men and their conduct. It is said, however, that nothing but a Convention will give to ~~our~~ the Constitution our imprimatur and remove from it the stain of its illegitimate origin. There is, I concede, much in that sentiment which appeals to our patriotism as North Carolinians, but we must not lose sight of the fact that very much, I may say, the much larger portion of this Constitution, certainly in many of its essentials, is ours by honorable inheritance, comes to us by descent from the patriots and statesmen of 1776, approved by the wise men of 1835 and of later times. It has been purged of much of the foreign matter and many of the "misfits" incorporated into it in 1868 and, while by reason of the growth of the State and the assumption of new and larger functions, amendments are needed, I do not think, with all deference to those who think otherwise, that it is, in its general features, so unsuited to our present condition and future development that it should be discarded as a thing "of shreds and patches." So much for the sentimental aspect of the question. Coming to more specific provisions and practical considerations, I do not understand that it is proposed to radically change the general outlines of the Legislative or Executive Departments. The number - the manner of election - the term - qualification, etc. of the members of the Senate and House of Representatives are, I think, satisfactory. Many, and the most important amendments to this article were adopted by the Convention of 1875 and ratified by a very large majority of the voters of the State. The limitation then placed upon the length of the bi-ennial session may have been a rather drastic remedy for an evil then existing. However, this

provision is found in almost, if not quite all, of the "models" which are now the objects of so much admiration and which it is insisted we must adopt; I fear, that the zeal of many for their adoption is not based upon as careful study of and thorough acquaintance with, their merits, or otherwise, as it should be for safe guidance. If desired, this restriction may be modified by the insertion of "ninety", "one hundred and twenty" or any other number of days desired in lieu of "sixty" or by striking out two lines of the section. Ample power is given the legislature to legislate upon procedural law. Our Code of Civil Procedure is an adoption of the New York Code, with such modifications as the local conditions, etc. suggest. I find that our neighboring States, except Virginia, which retains, to a large extent, the Common Law System of procedure, have substantially the same Code. Procedural law should never be incorporated into the Constitution; it is essentially a development and should be given room for growth and adaptation. It is thought, by many, who are well informed in this respect, that this subject should be left to the Courts to be regulated by "rules" - as is done in England and in Courts of Equity in the Federal system. There is, I think, nothing in our Constitution which prevents the General Assembly from committing to the Supreme Court, this power and imposing this duty. It is now, in a larger measure, conferred by Statute. Revisal Sec. 1541 and may easily be enlarged.

It is strenuously urged that power should be taken from the Legislature, or rather that it should be relieved of the duty of legislating in regard to what is termed private and local matters. That bills for the formation of municipal, business, industrial, educational, religious and other corporations, should not be permitted to encumber the legislative calendars. There is much to be said upon this, as upon most other, questions, on both sides - and possibly a third side of this subject. I think that careful study of the institutional and statutory jurisprudence for a self

governing people will teach us that very few statutes are enacted, or permitted to remain long in force, which have not a historic or traditional basis closely related to the opinion of the people. Notwithstanding the over worked tendency to criticize legislators, I think, with some experience and more observation that, usually the thought of the people, either state wide or local, finds expression in that which is enacted into law. The application which I would suggest of this thought is that the people desire and prefer, of course not in every instance, but in general, that many of these matters pertaining to their general and local interests, shall be dealt with in this way. It has always been their way of doing it. While there are objections to this custom and I am not sufficiently fossilized to refuse to acknowledge the force of the attack upon it, by my young friends whose intelligent and zealous interest in the subject is a good omen for the future of the State, I am not so certain, as they seem to be, that the doors of our legislative chambers should be entirely closed to the demands of the constituents of aspiring statesmen "in the making" to have their local interests made the subject of consideration by the General Assembly of the people's representatives. If time and space permitted, I think that I could make some suggestions worthy of consideration along this line. However this may be, does not the Constitution now contain provisions which, if properly utilized,will remedy the evil of which complaint is made? Article VIII provides that "Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes and in cases where, in the judgment of the legislature, the object of the corporations can not be attained otherwise." I note, with the limited time at my command for examination,that there is not complete uniformity in the State Constitutions upon this subject. (See American Charters, Constitutions and Organic Laws Compiled and

Edited under the Act of Congress by Dr. Francis N. Thorpe). Several of them contain absolute, while others contain restricted, prohibition of legislative enactment of Charters. However this may be, I think the language quoted meets the condition - which should exist in this respect. The Legislature has simply to exercise its intelligent "judgment." I think that it has done so. For several years following the adoption of the Constitution, we had no very well prepared or satisfactory statute providing for the incorporation of companies, associations, etc., hence, in almost all cases, application was made to the General Assembly for that purpose. At the Session of 1899, with the aid of the late Judge Womack, whose accurate learning, large experience as a lawyer and legislator, fitted him, in an eminent degree for this work, drew and enacted our present Statute. The report of the Secretary of State will disclose that a very large majority of our private corporations now receive their Charters from his office under the provisions of this Statute. There are other general laws specially providing for the organizing of Railroad Companies, &c. It may be that the scope of ~~xxxxxxxxxxxxxxxxx~~ legislation of this kind may, and should be, enlarged. When, however, this is done, experience teaches that in some instances the judgment of the Legislature may wisely be exercised in favor of an application for a Special Act of incorporation. Probably, if the legislature of some of our sister States had possessed and exercised more power in this respect, several of their predatory corporate monsters would not give their ~~xxxxxxxx~~ neighbors and their legislators so much annoyance. I am not certain that our Constitution does not occupy the middle ground on this subject - this is peculiar to the genius of "we people" of the good old Commonwealth.

When we come to consider the constitutional provision in regard to the organization of municipal corporations, the weakest point, it is said, in our American governmental system, the Con-

stitution is, I think, sufficiently elastic. By Article VIII, Sec. 4, it is ordained that "it shall be the duty of the Legislature to provide for the organization of cities, towns and incorporated villages, and to restrict their power of taxation, etc." Here, we find no rigidity which, in the slightest degree, obstructs the largest growth, or popular control, of municipal corporations. We may have commission form of government in all of its manifold manifestations from the ancient New England "town" to the "model of perfection" found in the newest State, moulded to suit "all sorts and kinds" of people - provided, always that they will come to an agreement among themselves - the failure to do which is the most serious obstacle to municipal government and growth. I believe very strongly in the Commission Form of Government, with both the initiative and referendum, and hope to see it in general use in the towns and cities of the State. But it is insisted that, without a constitutionally crystallized Iniative - Referendum and Recall, applied to the entire State, the triple jewels in the crown of the "New Democracy", the "whole thing" is a sham and a delusion. That only through, and by, these instrumentalities, can the people's rights be preserved and their sovereign will be declared and enforced. It is claimed that legislators, although elected bi-ennially, and sometimes candidates, diurnally, obstinately, pertinaciously and, under the binding spell of the enemies of progress, refuse to obey the popular demands. I can not but think that a careful study of our legislative history will, at least, suggest some doubt whether there is not a limitation to this proposition. I am quite sure that, with some exceptions, the legislature of North Carolina has given effect, when possible, to what they honestly believed to be the will of their constituents, if that will is sufficiently formulated to be enacted into law. Of course if the advocates of these newly found remedies are correct and they are necessary for the accomplishment of their purpose, we must have them. I am inclined to think, however, that

no great harm would come to the people of this Commonwealth if they should wait until our newly made sister States prove both their necessity and efficiency before incorporating them into our Constitution. They have, on other occasions in their history, "watched and waited" and I think no great injury has come to them for doing so. If these measures have the merits claimed for them, they will last and, as we are to have no monopoly hereafter, there will be no difficulty in our getting our share of them. I have read several quite interesting articles lately which arouse a suspicion in my mind that these new remedies for old evils are not working so smoothly nor removing the evils so promptly as their discovers would have us, who are not so well informed, believe. It is said that, even in Oregon, the wicked politicians are at their "old tricks" of trying to evade them and that the people are not so much interested in them as at their first introduction. I am not saying more than, that it may be well enough for us to remember and follow the example of the Carolinians of 1788 and 1861 and "watch and wait." But, does not our Constitution secure to us all of the substantial benefits of these really "old time remedies" for governmental ills. Does the credit of discovery or invention belong to the progressive statesmen of the North West? Have they not dressed up in new and somewhat fantastic garb and colors and given new and high sounding names to these old and tried "friends of the people?" No one in this old Commonwealth has ever doubted that it was the sovereign right of the people to memorialize their Representatives, not in words of petition but of instruction, for the enactment of such laws as they wished. This method is now called the "iniative" but, for practical purposes, it works out the same results as our present constitutional provision and ancient practice. The "referendum" has been so frequently used, with such satisfactory results, and so uniformly sustained by the Supreme Court, that, but for our excessive modesty, admitted by all, except a few envious neighbors, I would add it to our list

of "primacies" - but, as we"plain people" used it in its primal simplicity - our progressive friends and teachers will have none of it. They must reclothe it with such long, obscure and interminable phraseology or, as a departed friend of mine once said, "paraphalnasia", that we have lost our right of discovery. A fate which we have suffered in other fields of patriotic endeavor. As for the "recall" the shores upon which may be found the wrecked aspirations of many ambitious politicians admonish public servants that the people of North Carolina know how to "retire" them in more or less good order, when they become indifferent or disobedient to their sovereign will - they used the "recall" or, rather, enforced it, to rid themselves of Royal Governors, Stampmasters, Extortioners and other undesirable public servants, before some of their younger sisters were in the process of incubation. I can not but think that, before we go abroad to find remedies for either present or expected ills, we would do well to read, study and reflect upon the lessons taught by the men of 1765 - 1774 of the Albermarle, the Cape Fear and of Orange and adjoining counties. The only officers whose term is sufficiently long to get a recall proceeding into working order, are the Judges, and they are, just now, immune. How long they will be so, depends upon the success with which the modern, official guillotine works - if I recall history aright - those who first found it a quick and effectual machine for executing the will of the people, ascertained and enforced each day, became, in their turn, its victims. I am not very much interested in these proposed constitutional amendments. Their value and danger are, I think, immensely overrated. The people of North Carolina will estimate them at their true value and see that they do no great harm. They will with us, I think, in the language of Mr. Cleveland, fall into "innocuous desuetude." Why not, if they must be given a trial among us, give them a legislative lease of life? The Supreme Court of the United States has held that they pertain to the political department and the question

of their validity is not within the jurisdiction of the judicial department - hence, there is but little danger of the exercise of any "judicial usurpation of power" by the Court, to interfere with them. If I may chance an opinion, I do not perceive any constitutional objection to the first two. As to the "recall" probably it could not be applied to constitutional officers whose terms are fixed - but as to legislative officers the decision in Mial vs. Ellington, 134 N. C. 156 would seem to recognize the power of the legislature to attach such conditions to the terms, as it may see proper. It is hardly necessary to go to the expense of calling a Convention to get these measures into our Constitution, just now. I had indulged the opinion that we had settled the question of suffrage and eligibility to office in North Carolina. I did not suppose that this settlement would be disturbed, at least during our day. It certainly had given us enough trouble, and was sufficiently perplexing, to warn us against re-opening it. By some sixty thousand majority the amendment of 1899 was ratified by the people. The provision which probably demands more careful consideration in regard to proposed amendments is that relating to our system of Revenue and Taxation. That question, like the grim monster, is ever present with all States of whatsoever race, climate or form of government, is so well known that they are usually spoken of as the certainties of life. That it will ever be settled, satisfactorily to the tax payer and the tax spender, is an "iridescent dream." Its importance is only equalled by its perplexity. I have observed, however, that the man who was most concerned in "raising adequate revenue" for the needs of the State, is usually more active in criticizing existing systems and devising new ones, than the man who pays the tax. With all of its conceded inequalities in administration, I hear but little complaint from the "average man." The system, established in our Constitution, is based upon the theory that property of all kinds is to be taxed, at a uniform rate, according to its true value

in money. The limitation upon the rate is that the tax on the poll shall be equal to the tax on property valued at three hundred dollars, and that the tax on the poll shall not exceed two dollars - thus we have a constitutional limitation of sixty six and two thirds cents on each one hundred dollars worth of property. Supplemented by the indirect taxes on trades, franchises, professions, incomes and inheritances and privilege taxes, this is the source from which the revenue, for ordinary State and County purposes, is to be derived. That a fair valuation of the real and personal property in the State, with the other sources named, will easily produce this revenue, I presume no intelligent citizen has any reasonable doubt. We are assured of it by our Governors and Treasurers. If this result is not reached the failure to do so must be found in the machinery provided by the legislature or, in those who administer it and not in the Constitution. It is thought by many persons, whose opinions are entitled to very great consideration that this system is antiquated, unscientific, inefficient and works a hardship upon many of our citizens; they hold that an entirely different theory or system of taxation should be adopted. For that purpose it is conceded that the Constitution must be amended. The question, therefore, is whether a majority of the voters of the State are prepared, or will be, after discussion, to make a very radical change in the system. It must be remembered that those who oppose the present one are far apart in their views as to what system should be adopted, in lieu of it. One gentleman suggests that a graduated income tax, without any exemption, be imposed and that practically all State revenue, except inheritance, franchise, privilege and license taxes, be raised in this way. Personally this plan does not concern me, but whatever may be its merits, theoretically, I am persuaded that those who undertake to adopt it, will have a "recall", whether according to the old or the new method, very promptly. I am not opposed to an income tax, but my observation has taught me that those of us

who think it very jst and scientific, usually expect the "other man" to pay it. The same is true, to a large extent, in regard to graduated inheritance taxes. I have never paid any and am quite sure that, even without exemptions, they will ever disturb me or my Executor. Of course there should be a well regulated income and inheritance tax, but it will be well to remember that North Carolinians are slow to take to new systems of taxation. However, all of this may be, I am of the opinion that changes in our Revenue ~~xxxyxxx~~ System had best be made in a spirit of conservatism and tentatively, especially if they have to run the guantlet of a referendum. The tax gatherer is not a welcome monthly visitor to our homes - annually, we give him an old fashioned welcome, but as a monthly visitor, he will find but a cool reception. If, however, the Constitution must be amended to secure a larger revenue, upon a more equitable basis, why can it not be done by simply striking out the words "by a uniform ~~rate~~ rule (rule)", or adding to Section 3, the words "but the legislature may, in its judgment, impose taxes upon a graduated rate " or some equivalent thereof.

My wise friend, Governor Jarvis, who has rendered so much service of inestimable value to the State and who is still doing so, taught us a lesson when a member of the Convention of 1875. As is well known, one of the most grievous burdens under which the people of the East, especially, suffered was by reason of the rigid provisions of the Constitution of 1868, in their County government. For reasons then well understood, it was an exceedingly delicate and difficult subject to deal with. Turn to Article VII of the Constitution and it will be found that not one word of its thirteen sections, as written therein, was changed. Read Section fourteen and it will be found that power is conferred upon the legislature to "modify, change or abrogate any and all of the provisions of this Article and substitute others in their place, except seven, nine and thirteen." These, they desired to

ratain inviolate. The work was done - the legislature, I think, on the first day of its session of 1877 - following its ratification 1876, passed an act restoring to the people their ancient and well approved system of County government. The rigidity of the Article was removed and its provisions retained for future use, if the people so desired. I do not think a more skilful piece of amending a constitution was ever done by any body of men. The Governor still responds to the call of the people - he can, and will, give his counsel and aid to bring the Constitution into harmony with the will of the people and make it an efficient instrument to accomplish their high purposes. The Homestead and Exemption provisions in the Constitution were experiments and their terms, in many respects, obscure and difficult to harmonize. Many decisions have been rendered by the Supreme Court construing them - some of these decisions are not themselves in harmony with each other, but I think that, notwithstanding this, a very fair and workable construction has been reached. It is very doubtful whether any substantial changes in the Constitution, in this respect, would not create more confusion than it would remove. It will be noted that but few questions in regard to this subject now find their way into the Court. Whether the scheme, as established by the Constitution, is the best or wisest, possible, is open to debate - but the same may be said of any other. It is, of necessity, a difficult subject with which to deal. The Convention of 1875 was forbidden to change or amend it. I doubt very much whether the people would now be willing to give power to a Convention to do so. I can see no necessity for constitutional amendment to enable the General Assembly to enact any or all of the legislation contained in the programme of the Farmers' Union. The demand for a six months school term, meets, I presume, the cordial support of all. Compliance with it is a question of revenue and should be met. State wide, legalized primaries - corrupt practices act, compensation for injuries sus-

tained by employees, anti-trust legislation, the Torrens System, etc. etc. are all within the supreme legislative power "granted by the Constitution. Experience has shown that the Federal Constitution, very much more limited in its grant of fovernmental power, contains elements of expansion and growth to meet new conditions far beyond what was supposed by its makers. The doctrine of "implied powers" is more popular now than when announced by Marshall. The truth is constitutional systems, of necessity, must be given a fair, liberal practical construction so that liberty may be blended with order and the principles of progression with the securities of permanence. The people of the State have, so far as I can ascertain, made no demand for a Convention - they would doubtless be surprised to find themselves called upon to vote on the proposition to call one. They are now prosperous and contented, giving a due share of their thought and attention to their industrial and political interests. When the legislature met in 1899 it was well understood that it was commissioned and commanded to make radical changes in the suffrage provision as then contained in the Constitution. It was the disturbing element that must be removed. I was in a position to hear something of the differing views of thoughtful, intelligent men. I know that many of them thought that a Convention should be called - they urged, with force, their opinion in that respect. Many, of course thought otherwise. The legislature followed the latter with, I think, satisfactory results. Our neighboring State, Virginia, called a Convention - it sat, with a number of adjournments, I think, about one year. The new Constitution made by it was not submitted to the people. I am not criticizing, but only stating facts. Our amendment was the result of long and anxious discussion - the result was often in great doubt. I doubt very much whether in a Convention, with a general overhauling of the Constitution in hand, we would have reached so satisfactory a result. I doubt very much whether the result of a vote on the proposition to call a Convention would

be sufficiently large or decisive as to give a free hand to the delegates. The cost of a Convention in the present condition of our revenue and demands upon it, it worthy careful consideration. If necessary it should not be a conclusive reason for not calling it, but in passing upon the question of necessity, it should have due consideration. There are political considerations to be taken into account to which others, better informed and of better judgment than myself, will give due weight.

Without further trespassing upon your kindness in giving me the use of your columns, I wish to say in conclusion that I hope to see the present General Assembly "go forward" in every avenue which will lead the people into large and more ample opportunity to work out that which is in their minds and hearts to do. I also wish to see them submit such necessary amendments to the Constitution as will remove every obstruction to the growth, and upbuilding of the Commonwealth (a fine old word) in all of its forms and phases, of moral educational, industrial and political life. While not adopting the quotation, in its entirety, I have always thought that there was an abundance of wisdom in Pope's lines, regarding the contest over forms of government. Certainly it is true that the final test of any system of government is its administration and it is also true that: "That which is best administered is best."