

In what may be further said, I beg to assure you that I shall do so with perfect respect for you and your views, and yet with the freedom which a friend and a citizen may take, when in his own mind he is vindicating the cause of truth and law.

It is scarcely necessary to say that the objectionable provisions of the proposed Constitution would not prevent the enjoyment of any suffrage, and that I have no other interest in the matter than as a citizen of the State, who desires the Constitution to be observed and the law respected.

In regard to the unconstitutionality of the provision which requires an oath of voters unknown to the Constitution, and in repugnance to it and to the law, I did not suppose that any lawyer in the State (outside of the Convention) could entertain a doubt, nor do I understand you to express any, and I am sure if you entertained one, no one could find language more expressive and cogent than yourself to declare it. But you are too good a lawyer to entertain such an opinion, and your unwillingness to interfere must be predicated on other grounds. You refer to the first Constitution as not having been submitted to the people, and express the opinion that such reference was not essential to its validity. I have not the data and the facilities to examine into the history of that Constitution, and cannot therefore venture an opinion upon the fact of its submission to a popular vote, but I may safely lay down as a postulate, that if the law which called the Convention required its submission, it was done; if it did not require it, it gave plenary power to the Convention to form a Constitution by its own acts. Another postulate I may safely advance is, that if an Act of the Assembly authorizing a vote of the people upon the question of Convention or no Convention, directs the manner of electing Delegates, and requires their work, when done, to be submitted to the voters of the State, the Convention cannot make a Constitution that would be binding without its submission to and ratification by the people. You refer to an irregularity in calling the Convention of 1851, and the provisions of the old Constitution upon the subject of its amendment. I believe that some did think the manner of the call irregular, but not that the people could be restrained from making another Constitution. However, if it proves anything, it is only as to the manner of calling it, not to any abridgement of the people's rights under it. The call, if irregular, was made by the people for their benefit, to enable them to form such a Constitution as they wished, embracing their views and opinions which the changed circumstances and progress of the age made expedient, but there was no complaint that the sovereign people were affected or prejudiced in their rights by any innovation. If the opinion was well founded, it only shews that the people were sovereign, and did not feel bound by forms and regulations which affected only the time and manner of doing what they thought should be done in a briefer period and a different mode. It was the people who did and sanctioned it. If then these irregularities existed, of which you write, they were those of the people, the masters, to carry out and effectuate their own will,