

THE ELECTION OF THE STATE JUDICIARY.

A bill has passed the Senate, and is now pending in the House, providing for an election to fill vacancies in the Judicial Department. Justices Settle and Bynum, of the Supreme Court, and Judges Cloud, Jones, Albertson, and probably others of the Superior Court, have been appointed by the Governor at various times to fill vacancies caused by resignations and deaths. It is now proposed by the pending bill to fill these vacancies by an election by the people. The friends of the bill are opposed to the objection that the election is not the proper one to which to fill these vacancies, but that the appointees hold their offices for the unexpired terms. That such is not the proper construction of the Constitution is to us very plain, and believing that it is the duty of the Legislature to provide for an election to fill these vacancies, we desire to present our views for their consideration.

It is necessary for a proper construction of this question to examine first into the spirit of the Constitution itself. Article I, Section 2, reads: "That all judicial power is vested in, and derived from the people, all appointments of judges shall only be made by the people, and is instituted solely for the good of the whole."

Section 28 of the same article reads: "The Governor shall have the power of appointing and strengthening the laws, elections shall be held."

These are the leading features of the Constitution and in obedience to these acknowledgements of their supreme power all officers are elected by the people, and all officers who had longer periods, must strike every one, and seem to be conclusive. Where an office is only for two years the appointee holds for the unexpired term, because there is no expiration of the term at which the people can elect a successor. But in every instance where the office is for a longer period, whenever a "regular election" is held before the expiration of the term, then the appointee holds, only until the "next regular election" as in section 31, or "until an election can be regularly held" as in section 34 of the IV Article.

The framers of the Constitution in one of their striking differences between filling vacancies in offices elected for two years and for longer periods should not be understood not only used very expressive terms, "for the unexpired term," and "until the next regular election," but they used them in contiguous sections of the same article. "All vacancies occurring in office," "as provided for by this article of the Constitution," shall be filled by the appointment of the Governor, until the next regular election, and the appointees shall hold their places until the next regular election," reads section 31.

Section 29 does provide otherwise not only for the appointing power, but for the duration of the term. County Commissioners appoint vacancies in the Sheriff's office. Superior Court Clerks appoint Justices of the Peace and Coroners, and for the unexpired term.

The very difference in the words used is consistent with the spirit of the Constitution, and what appears to be a marked contrast in the time for which these appointees are to hold their respective places is really in keeping with the leading and governing feature of the Constitution, that all power is vested in and derived from the people. In every case the appointee holds only until the "next regular election," when the people select at their polls their officers whether Judges, Justices of the Peace, or Coroners. All are referred back to the people at the very earliest moment possible. No appointment lasts longer than the people can say at the ballot-box who shall make, interpret and execute their laws.

We believe that the next Legislature does not provide for the filling of these vacancies they will be derelict in their duty, and we hope to see the bill amended so that the Governor will be a matter of the first importance, and the people will expect their representatives to do nothing to compromise their dearest rights and interests.

GRAVE CHARGES. Grave charges have for some time been made against Judge Watts, of the Sixth Judicial District. These charges involve drunkenness, bribery, corruption and official misconduct generally. If they be true Judge Watts ought at once to be driven in disgrace from the bench.

Hitherto the imputations upon the character of Judge Watts have never been formally and officially, as it were, brought before the Legislature, and for that reason it is to be presumed that the Legislature is not officially required to do by that body. Recently, however, a citizen of the State in the exercise of his right to petition the Legislature for the removal of grievances, brought the matter to the attention of the House of Representatives in a formal memorial, making grave charges against Judge Watts, and alleging that ample and abundant proof was ready to sustain them. As we have said these charges were drunkenness, bribery, corruption and official misconduct generally. These offenses being by law impeachable offenses in North Carolina, and the House of Representatives have under the Constitution the sole power to prefer articles of impeachment, it was the manifest duty of the House of Representatives to refer the memorial containing the charges to a committee for investigation. This was promptly done, and we learn that the committee is still at work taking testimony.

What the report of the Committee will be we know not, but we have to say in reference to the action of the House of Representatives, in case it shall be reported that there is testimony sufficient to convict Judge Watts of any impeachable offense, that the people of North Carolina will hold their representative responsible if they do not promptly prefer articles of impeachment against Judge Watts, to the end that he may at once be tried by the Senate and expelled from the bench.

There is nothing so abhorrent and repugnant to our people as a corrupt Judge. It may be true that Judge Watts rides only the Raleigh Circuit, but the people in the other Circuits are justly no less as deeply as possible, inured to the sight of a corrupt Judge. Nor will they regard the mere cost of trial, but will consider the money as well spent, that enables them to displace an unjust Judge. It is indeed unfortunate that the charges were preferred at so late a day, but that cannot now be helped, and the House of Representatives must deal with the fact as they are, and not as they would have them to be. The charges are before them and if there be evidence to sustain them the plain duty of the House is to impeach the man who will thus appear has so long disgraced the bench. To do this will be the only full discharge of their sworn constitutional duty.

We repeat that no prolongation of the cost incurred by the prolongation of a trial ought to influence members of the Legislature to evade their responsibility in this matter. If Judge Watts is corrupt or a drunkard let him no longer disgrace the Judiciary of North Carolina.

CONSOLIDATION. We publish elsewhere, the remarks of the Raleigh Examiner in reply to our article published a few days since upon the question of the change of gauge in connection with Consolidation. We appreciate the kindly expressions towards the JOURNAL. No paper has labored more faithfully for the general prosperity of the State, and we are glad to receive the acknowledgement from a political opponent. What we will say in reply to the Examiner will, we trust, be argued in the same spirit in which its article was written.

The JOURNAL and Examiner cannot possibly differ in their wishes to do all that is possible for the material advancement of the people of North Carolina, however much their ideas as to the proper applicable condition of affairs may differ.

We certainly have no desire to oppose the completion of a great North Carolina system of railroad from the seacoast to the mountains, and all we have written has been influenced by the fear that such a line would not be built, or if built, it would not be used to the advantage of North Carolina towns and sections. We certainly have no interest, local or otherwise, to serve in the consolidation of the lines which are not in accord with the interests of the entire people of the State. While we are always ready to do battle for the local interests of Wilmington with the business and wealth and honor we take care of himself. We have not seen Colonel Bennett since the Consolidation bill has been introduced, nor has there been any direct or indirect communication between us. We would at all times be glad to consult with gentlemen so capable of giving advice and so familiar with the legislation of the State as Colonel Bennett, but we have not had the good fortune to do so in regard to this matter. We are infinitely obliged to him for the copy of the bill which he has kindly sent us, and we can gather them from the meagre reports of the Legislative proceedings, and he is in no wise responsible for our views. There can certainly be no "management" between us in anything he may have said and in what we have written.

A GOOD JOKE. Hon. W. A. SMITH is such an inveterate joker that it is difficult to tell when he is in earnest. One day he abuses the Republicans and the next day he denounces the Democrats. His last joke is to array himself squarely against the Federal Government, and he has already by the first indication we have seen that he has repented of the denunciations of the party in which he indulged at the last State Convention when they endorsed the ridiculous claim which General Abbott was making for a seat in the United States Senate. Since that time we had supposed that Major Smith was rather a political bushwhacker, nanking war on his "own hook." He has lately published a card in which he alleges himself in the foremost ranks of the Republican party. So much the worse for Major Smith.

But the Major perpetrates a good joke in his card over which we could but laugh heartily. He says: "If the West want their road finished they must send Republicans to the Legislature. If the people of the State generally desire their debt arranged and provided for they must send progressive Republicans to the Legislature." How savory this joke is of the days of Littlefield, Swenson, Laffin, Sinclair and Holden! What a grim inscription these words would be upon the tombs of Jones, Rich, Stevens, Cavery and Galloway! We enjoy, in imagination, the hearty laugh with which the Major read over these lines. Well it is a good joke, and we can appreciate a good thing, even from a political opponent.

If there are any two things which the tax-payers of North Carolina will not trust to Republicans, especially "progressive" Republicans, it is their railroads and debt. "Progressive" Republicans have curtailed their railroads and increased their debt, and they desire to see if the Conservatives and Democrats will not reverse that order of things.

And Cherokee for the benefit of Baltimore and New York, at the expense of Morehead City and Wilmington. Surely, the Examiner does not want this line built merely to compete with General Malone for paper Northern freight! That paper Northern freight is the Southern Security Company no longer owns the Knoxville line, and that General Malone will, if he does not already, control it for all through competing business. Long before our road can possibly reach Morris town with its wide gauge, Malone will have firmly secured all of this competing business. And then when Kentucky and Ohio seeks us as they rapidly stretching out their arms to do, if we cannot go to meet them, they will find but a cold reception with our difference of gauge. Cut off from one line by other and older interests and disconnected with the other by a difference of gauge, we will find ourselves with no friends at the Western termini of our great line of railway.

We want direct trade with the far West, but we do not desire to obtain it at the expense of producers in the Western part of our own State. We have no desire to sacrifice their trade to accommodate those of other States. Can this be done by any arrangement that requires the "breaking of bulk" between Asheville and the Eastern markets? Most assuredly not. The Examiner seems to forget that a full understanding was had in 1865 that the Wilmington, Charlotte & Raleigh Railroad (now Carolina Central Railway) should not cross the mountain, but to connect at Hickory with the Western N. C. Railroad, and join hands and push that line through to Asheville with all the means the State could raise for the purpose. To that end there is a binding provision in the charter of the Western N. C. Railroad requiring it to carry freight and passengers on as favorable terms for the Wilmington, Charlotte and Rutherford Railroad as it carries like persons and freight for other lines.

Many of the great lines have to break bulk at some point, and this one can do, we suppose, at Asheville or Morris town until the Cumberland Gap route is opened, when a Cincinnati connection with our State gauge will be made.

We alluded to the promise of the owners of the Carolina Central Railway to issue stock to the stockholders of the Wilmington, Charlotte and Rutherford Railroad. We have not seen Colonel Bennett since the Consolidation bill has been introduced, nor has there been any direct or indirect communication between us. We would at all times be glad to consult with gentlemen so capable of giving advice and so familiar with the legislation of the State as Colonel Bennett, but we have not had the good fortune to do so in regard to this matter. We are infinitely obliged to him for the copy of the bill which he has kindly sent us, and we can gather them from the meagre reports of the Legislative proceedings, and he is in no wise responsible for our views. There can certainly be no "management" between us in anything he may have said and in what we have written.

Mr. Jones, of Caldwell, contended that there was no right to protest against any particular clause in a bill, but that the right to amend was reserved to the members of the House. Mr. Jones said that the gentleman from Ashe (Mr. Trivet) should have shamed his paper more closely. Mr. Jones said that the gentleman from the State (Mr. Trivet) was not the creature of Mr. Trivet, but had been driven to present it by the party which introduced it. The resolution was adopted.

Mr. Speaker Robinson ruled that the "protest" was disrespectful in its language, and that the gentleman from Ashe (Mr. Trivet) should have shamed his paper more closely. Mr. Jones said that the gentleman from the State (Mr. Trivet) was not the creature of Mr. Trivet, but had been driven to present it by the party which introduced it. The resolution was adopted.

Mr. Dula wanted the "protest" read. Mr. Trivet said he had no wish to offer anything which would excite a feeling. He bowed to the decision of the Chair and would withdraw the document.

The section protested against provides that no one who has refused to testify before any committee, legislative or otherwise, shall be eligible to any public trust on the ground of self-implication, or who has refused to return the fraudulent securities of the State, shall be eligible to any office in the State.

On motion of Mr. Bennett, the resolution asking the Supreme Court to give effect to the right of the General Assembly to order a seat in the United States Senate for certain Judges, (two Supreme and two Superior Court Judges,) was taken up and passed its several readings.

The resolution was adopted. On motion of Mr. McGehee, the Senate resolved to appoint a joint committee to make suitable arrangements for the Centennial Celebration, was taken up and passed its several readings.

The bill to prohibit the sale of liquor in townships where the people so determine at an election called by the Board of Supervisors, was taken up and passed its second reading.

The bill to authorize the Commissioners of Duplin county to levy a special tax, was taken up and passed its second reading by a vote of yeas 76, nays 2.

The bill to authorize the Commissioners of Duplin county to levy a special tax, was taken up and passed its second reading by a vote of yeas 69, nays 0.

The bill to authorize the town of Hickory, Catawba county, to issue bonds to the amount of \$100,000 for the purpose of purchasing the stock of the Wilmington & Seaside Railway or any other company, was taken up and passed its second reading by a vote of yeas 78, nays 1.

The bill to authorize the town of Wilmington to subscribe to the special Wilmington & Seaside Railway stock was taken up and passed its second reading by a vote of yeas 65, nays 7.

The bill to authorize the Commissioners of Duplin county to levy a special tax, was taken up and passed its second reading by a vote of yeas 69, nays 0.

Mr. McNeill opposed the resolution. He contended that it indefinitely postponed the resolution. He took the ground that the Supreme Court could only rightfully take jurisdiction of the case in the event of an appeal and claims against the State, &c.

After some further debate the yeas and nays were called, and the motion to carry this resolution to the floor was carried by a vote of yeas 58, nays 56.

Mr. McGehee objected to its being read again, and the Speaker sustained him.

SENATE. MONDAY, Feb. 9. Mr. Avera, from the Committee on Enrolled Bills, several bills in correspondence with the House, and a bill on the subject of the "Consolidation of the Railroads," were taken up and passed their third reading. Yeas 97; nays 35.

The bill to prohibit the sale of spirituous liquors in one mile of churches, schools, &c., was taken up and passed its second reading. Yeas 97; nays 35.

The bill to amend chapter 116, section 17, Battle's Revised Statutes, for the relief of physicians was taken up and passed its third reading. Yeas 97; nays 35.

HOUSE OF REPRESENTATIVES. Mr. Perry, of Bladen, a resolution respecting the Big Swamp in the counties of Bladen and Hobson. Referred.

By Mr. Richardson, a bill to incorporate the Machine and Car Company of Wilmington. Referred.

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