FAIRFIELD HERALD

WINNSBORO.

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Wednesday Morning, March 15, 1876.

Moved to Tears.

Speaking of the trial of Judge Montgomery Moses, the *News and Courier* says: "Chief Justice Moses was on the stand, and wept there bitterly. Likewise he wept when he was elected judge by the democratic legislature in 1866." We never had an idea that the Chief Justice was so tender-hearted. His "only begotten son" (we use his own words) was indicted for larceny and is held in contempt by every decent man in the country, and yet we have never heard that the sire wept for the misdeeds of the offspring. But then, you know, the "only begotten" never was impeached.

Very Bad Indeed.

The Western newspapers are especially outspoken on the subject of Babcock's acquittal. They say it was to a great extent fixed up at Washington, and that Judge Dillon, the circuit judge before whom the case was tried, virtually instructed the jury to acquit. Much comment has also been elicited by the action of Attorney General Pierrepont in instructing the several district attorneys that a man's turning state's evidence should not protect him from prosecution. This is said to have had the effect of weakening the government's evidence in the whiskey cases, and Mr. Pierrepont has come in for a full share of abuse. The St. Louis *Times* says that the secret service force was for some time trying to find out how the attorney general's letter was made public, and that it has been discovered that Babcock, having access to the president's private papers, had found the letter, made a copy of it, and furnished his counsel with a transcript. The feeling of disgust at this proceeding is said to be almost equal to that over Belknap's disgraceful transactions.

Judge Montgomery Moses.

The impeachment trial of Judge Montgomery Moses, of the seventh judicial circuit, has at last assumed a form from which we may draw a conclusion based upon the uncontradicted testimony of witnesses. The charges preferred against him are reducible to two—neglect of official duty, and corrupt practices on the bench. The first was shown by the evidence of members of the bar and others, who testified that though the several dockets were constantly full, there was scarcely a single satisfactory session of court during Judge Moses' administration. Of course, this gross neglect must have had a bad effect upon the community, and likewise have occasioned much personal inconvenience and perhaps suffering. What the Judge's defence to this charge might have been we are at a loss to know, and we are equally at a loss to conceive what excuse he could have presented. So much for the charge of neglect of official duty. The other is far more serious, and if true far more damning. Many witnesses, county officials, testified before the court of impeachment that Judge Moses more than once requested of them loans of money. S. T. Poinier, county treasurer of Spartanburg, testified that Judge Moses had asked him, in 1875, for a loan of $250; that he refused on the ground that he had only $750 of official funds, and did not regard that sum sufficient for the expenses of the court then in session; that the Judge insisted, saying that it would be ample; that he finally raised $250 and lent it as desired. John G. Carrington, sheriff of Newberry county, testified that Judge Moses frequently borrowed money from him. On one occasion the Judge told him that he must have money, and on the witness insisting that he had none, his Honor replied that he knew the sheriff must have some, from decrees he himself had just made. Upon Carrington's saying that these were official funds and could not be touched, the Judge said that the money was subject to the order of the court and the court wanted it, and that he would pass no orders for the sheriff to pay out the money in question until the court had paid it back. Just at this time an attorney proposed an order, by consent of parties directing the disbursement of the funds in question, but the Judge refused to sign the order, and at once adjourned the court. He afterwards said to Sheriff Carrington: "I have refused the order. Now let me have the money." The money was lent. He had on two other occasions lent the Judge money in a similar way and his Honor had always protected him. When he was "ruled" about the money in question he answered, "The money is subject to the order of court, and the court has the money." He had never heard anything further of the rule. John W. Rice, clerk of court for Laurens county, stated that the Judge applied to him for a loan of money, but he refused on the ground that all the money in his hands was of his official deposit. The Judge then insisted on having a certain sum, saying that he would protect the clerk by passing no orders for the disbursement of the funds till the borrowed sum should be returned. This witness also stated that in a certain transaction the Judge borrowed $200, but witness held him accountable for but $175. He went on to say that the Judge having stated that there were some overcharges in the his account as clerk, he "*gave the Judge the $25 to let the matter stand!*" Jesse C. Smith, treasurer of Newberry, made a similar statement about the Judge's request for a loan, accompanied with the assurance that no order should be passed for the paying out of the funds till the debt was paid. Other witnesses testified to similar transactions. Upon the close of the evidence on the part of the managers the accused asked time to prepare his defence, and upon the refusal of that request, his counsel retired—as will be noticed in our synopsis of legislative proceedings. This leaves the senate to act upon the evidence as presented by the managers only.

It is very unfortunate that a trial of so much gravity should be permitted to go by default on the part of the defence. Judge Moses will of course maintain that he has not had a fair trial, and that he could have proven his innocence. This is the view taken by his counsel when they withdrew from the court. But such a plea, however strong from a technical standpoint, will not avail Judge Moses before the bar of public opinion. The statements of the several witnesses, remaining uncontradicted, must be taken as conclusive evidence of his guilty participation in the acts described. We can not believe that a number of men would combine to injure the Judge, would combine to make false statements, similar in their general scope and would commit wilful perjury. Yet we must believe all this to hold Judge Moses innocent. The charges are too specific, too minute in their details, too consistent in their parts, for us to suppose that the accused has been the victim of a conspiracy. They all have the impress of truth. The course of Judge Moses must cause a blush on the cheek of every honest man who aided by his vote to elevate him to the bench. How he could have impressed any sensible man as possessing the necessary qualifications, we are at a loss to conceive. But he was elected because he professed to be a republican. Political considerations and political influences had a chief part in making Montgomery Moses judge. That he has turned out no worse than the impeachment trial shows him to be, must be attributed to good fortune and not to any proper discrimination shown by the legislature in raising him to the bench. His fall should be a lesson to all future legislatures, serving to show them that integrity and talent are indispensable in a dispenser of justice, and that where these are wanting in an aspirant of one political creed, they should be sought in the individuals of another. A political judge is a dangerous personage.

New Hampshire.

The result of the election in New Hampshire was looked for with considerable interest. It was the first issue of the grand struggle of 1876, and upon it a great deal was thought to depend. The contest in the state has for some years been a very close one. In 1868 the state election resulted in a majority for the republicans of 2,523, and the presidential one of 6,967. The democrats had a plurality of 807 in 1871, and a majority of 1,465 in 1874. In 1875, the republicans had a plurality of 171. In all the other elections since 1867, seven in number, the republicans carried the state by majorities varying from 228 to 6,967—the average majority being 2,842. The republican majority in the election held a few days ago was about 1,800—being less than the average majority in the preceding years in which the party was victorious. Of course the republicans all over the Union are jubilant, and are especially so as it was expected by some that the Belknap scandal would turn a close election into a democratic triumph. As for the effect of that matter on the people in New Hampshire, we must suppose that they were either indifferent to its real character, or they fought the election on non-national and to some extent non political issues. If the first be true, their course is only a further proof of the general corruption of the republican party, and if the latter, they have won no great triumph after all. There are many things to be accomplished by the republican party, before the November election, to enable them to carry the country at that time. The democrats have no reason for despondency over the result in New Hampshire.

Judge Mackey's Vindication.

In the house of representatives, when the resolution looking to an investigation of the official conduct of Judge Mackey was offered, Mr. Crittenden made a long and forcible speech in opposition to the movement inaugurated—by Yocum, the sheriff of Chester, it is supposed—against Judge Mackey. He stated it to be his honest conviction that the movement against the Judge was prompted by the worst of motives, and that to encourage it would be to lend aid to a defeat of justice. He quoted from several prominent gentlemen in the sixth judicial circuit, to show that the impeachment of Judge Mackey would accomplish no good whatever. The vote was taken upon a motion to lay the resolution of investigation upon the table, and that motion was carried by a decided majority—all the conservatives except one voting in the affirmative. Judge Mackey has received many compliments since his election to the bench, but the highest encomium with which he has yet been honored is found in this action of the conservative members of the house. We take for granted that those who thus took the side of the Judge in the very serious charges brought against him, pursued that course advisedly, with a full knowledge of the facts of the case and with a full realization of its great importance. Viewing their action thus, we are more than ever convinced that at least the major part of the accusations made against the Judge were based upon weak grounds, and were not such as could have been proven with sufficient certainty to justify a conviction in a court of impeachment. Such being the case it is as well that his case was so speedily disposed of by the house. We must not be understood, however, as receding in any degree from the position we have taken with regard to the Judge's action in discharging the grand jury of Lancaster for their failure to find a true bill in a certain case. From all that has been said on this subject, it seems possible that the grand jury committed an error of judgment. This has nothing to do with the serious question involved—that of the right of a judge to reprimand and discharge a grand jury for a failure to find a true bill in a case presented for their investigation. That question we would like to see soon settled in some authoritative form. The sooner the relative duties and the relative rights of judges and grand juries are finally established the better for the enforcement of law and the full protection of the life, liberty and property of the citizen.

Judge Mackey's chief faults as a judge are two—his fondness for politics and his occasional irritability. The first does not enter into his discharge of his judicial duties, but it has the effect of causing people to look upon him more as a politician than as a judge. This should not be. Of course it cannot be expected that a judge should have no political views and political preferences of his own, but these should be kept concealed from public view. The less a judicial officer has to do with political parties and political conflicts, the better for his official dignity and usefulness. Judge Mackey's impatience and occasional severity towards parties thrown in contact with him in the court house, are due to two causes, the one increasing the force of the other—a natural quickness of action and inference, sometimes running into impatience, and excessive work in the court-house. These causes can be largely removed by shortening the daily sessions of court, and thus affording opportunity for that relaxation which is really essential alike to the personal comfort and the full efficiency of both judges and lawyers. It cannot be denied that Judge Mackey's practice of holding night sessions has done much towards relieving the courts of long accumulated business, but now that the dockets are not so seriously encumbered, it would be as well to adhere strictly to the old plan—daily sessions of from six to eight hours each. Such an arrangement would really, in many cases, be a positive furtherance of justice. Witnesses and jurors who are kept in the court-room daily from ten in the morning till twelve at night, with only a short intermission for meals, cannot do that justice to a case on trial which can be received from men who enjoy all necessary rest and relaxation. Judge Mackey's industry and endurance on the bench have been a subject of general remark, and he deserves great credit for them; but we are convinced that a return to the old plan would be better for all parties.

A Centennial Official.

Major Lewis Merrill has been assigned to duty under the Centennial Commission. Major Merrill is not unknown to the people of South Carolina. He was post commandant at Yorkville in 1871, and was the chief agent of the government in the ku-klux prosecutions. He kept entirely concealed for some time his real feelings and intentions, and the good people of the town had really persuaded themselves that he was a gentleman, when his character was suddenly shown up in its true light. To say that Major Merrill disgraced the United States uniform in his actions at Yorkville is to express most mildly the character of his course at that place. The writer of this article is prepared to prove, by unimpeachable testimony, more than one case in which his course was brutal, cowardly and tyrannical. He was the prosecutor in almost every case tried by Judge Bond, and in at least one of these he must have been most strangely ignorant of facts not to have known that the accused was innocent. We allude to the case of Dr. E. T. Avery, who was convicted by a jury—palpably and notoriously packed—of an outrage upon a negro preacher in York county. The defendant established as clear an *alibi* as was ever shown in a court house. But of course the jury convicted. Dr. Avery, seeing the hopelessness of a just verdict, fled during the progress of the trial. He was afterwards pardoned, it being clearly shown that he was innocent. We believe that Major Merrill knew he was not guilty—in fact, if we are not mistaken, it was stated to him before Dr. Avery's arraignment that he was on the wrong track. But the defendant was a respectable gentleman of York county, and it was important to make an example of such a man. And, besides, the conviction was worth just two hundred dollars to the astute and far-seeing Major. We might mention many other acts of Major Merrill that should bring on him the contempt of all honorable and impartial people, but we forbear. His crowning disgrace of the uniform of our army was his receiving from the legislature about twenty-one thousand dollars for the arrest of persons charged with ku klux offences. His lobbying schemes to procure that sum, and his ready acceptance of it, show plainly what was the cause of the zeal he displayed as post commandant, government spy and general prosecutor. The deeds of the ku-klux were such as no reasonable man will attempt to excuse. But as they were outrages against law and order, so were Merrill's doings offences against decency, truth and justice. His course in Louisiana was even more conspicuous for cowardice, duplicity and tyranny than in this state, and he was very properly rebuked by General Emory, the department commander.

The appointment of such a man to a leading position at the national exposition is an insult to those whom he oppressed and who are now invited, for the sake of peace and fraternization, to take a part in the Centennial. Had the whole army been searched for one more distasteful to the Southern people, there could not have been found such a one—except it had been General P. H. Sheridan, the man who was "not afraid" when backed by the whole power of the national government, he maligned and insulted the oppressed people of Louisiana.

Major Merrill was appointed a few weeks ago, by the then secretary of war, Mr. Belknap. There is something very appropriate about this. Just at the time when the gallant Major was lobbying through the most corrupt legislature ever assembled in South Carolina a bill to pay him for his services in capturing alleged ku-klux, the secretary was receiving from Mr. Marsh annual payments for a post-tradership purchased at the suggestion of Mrs. Belknap. It is quite natural that a man who would thus degrade one of the highest positions in the government for selfish ends should confer an honor upon one who had played detective for twenty thousand dollars and his usual pay as an officer. We have no doubt that Major Lewis Merrill was, in the eyes of the secretary of war, a most efficient and enterprising officer—efficient in doing the dirty work assigned him and enterprising in getting extra pay for his services.