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FIRE PICTURES.

Did you dear reader ever sit in your room on a cold winter day or night and make pictures in the fire? What an absurd idea! I fancy I hear some of you exclaim as you smile and shrug your sholders. Well, I acknowledge that it may sound weak and absurd too, but for all that allow me to describe a picture to you which I made in the fire one night not long since. It had been an uncommonly cold day. All the day before it had been raining and freezing, and the next morning when I looked out I stood for some moments gazing in silent admiration upon the cold, beautiful scene spread out before me. It had cleared off grandly, and the regal sun had burst forth in all of his magnificent splendor. The distant fields lay in death-like repose 'neath their winding sheet of ice, while the towering pines and monarch like oaks bowed low their lofty heads beneath their cold weight of matchless beauty. As I regarded the lovely scene gleaming in the pure sunlight of heaven seeming to my enraptured vision to reflect a thousand different hues, I stood lost in speechless admiration. But to return to my subject it was on the night following this day that I sat alone in my room, my head bowed upon my hand, and my eyes fixed intently upon the blazing fire that leaped merrily up the chimney. As I sat looking upon the glowing bed of embers, this picture rose before my eyes, plainly as if drawn by the hand of an artist upon canvas. And this is what I saw. I saw a room, plainly but neatly furnished, in the midst of which sat a lovely darked-eyed woman, holding close to her bosom a sweet, baby boy of perhaps three summers. Ah! how tender, and innocent he looks as he lifts his smiling face to receive the loving kiss that she bends to press on his rosy lips. Then as I looked, I saw the little head sink low upon her bosom, and the blue eyes closed in peaceful slumber, and softly I murmured under my breath· Oh happy mother watch and guard tenderly your precious treasure! Slowly the picture faded from view, but almost immediately another one rose in its place. I looked into that self same room again, and I saw as before the same dark eyed woman, but oh, how changed! This time she held no smiling baby boy in her arms, but sat in a listless attitude her hands folded on her lap, and a restless, uneasy light gleaming in her eyes. Presently I saw her spring to her feet with a great sob of pain, and fix her sad eyes on the form of a young man perhaps eighteen years of age who came through the open door with a heavy, uncertain step. His eyes gleamed with a strange wild fire, his once fair face was flushed, and after vainly endeavoring to take a few steps forward he sank to the floor in a stupor of intoxication. With flowing tears I saw her kneel by him and I seemed to hear the tones of her voice as she sobbed: "My boy! my boy!" God strengthen and help thee, poor mother! The picture grew dim, but another one rose before my gaze—bright and vivid, and I shivered as with cold while I looked. Again I looked into that room, and this is what I saw. A trembling, haggard faced woman kneeling near a couch on which was extended the form of a dying man—yes, dying yet wild blasphemous oaths leaped like fire from his burning lips. One moment he lay quietly, and then oh horror! he started up exclaiming. "Mother I am dying-dying the death of a drunkard, and as such I am doomed!" Slowly a livid shadow overspread his swollen face, and with these last words he sank back dead. I seemed to her one wild wail as the mother arose and looked with streaming eyes out on the summer night. The clear, full moon looked calmly down on the earth—the bright stars on the fields of space as they looked pityingly down seemed to whisper "doomed" the summer breeze whispered "doomed," and her own sad heart wailed forth doomed-doomed!" The vivid picture as if by magic faded away, and with a low cry I sprang to my feet to find that I had been making *fire* pictures. Yes, fire pictures, but oh? what a true representation of what is daily, and hourly going on in so many American homes. Those who indulge in the use of the wine-cup see, and know its evils—know where it will lead them, yet they close their eyes, and blindly persue the road to destruction. Oh! will it never be cast aside? Will peace, and love never smile, where woe, and misery now frown? Oh friends! one and all, be warned ere it be too late! Forsake the path of intemperance, turn to the road of light and honor, for ye are standing upon the brink of eternal destruction, which ere-long will engulph your body and soul! Cast the fatal glass from you, and "Look not thou upon the wine when it is red, when it giveth his color in the cup, when it moveth itself aright. At the last it biteth like a serpent, and stingeth like an adder!"

SUE J. JESSAMINE DICKSON.
THOMASVILLE, N. C.

Dissenting Opinion of Associate Justice Reade in the Case of Cloud vs. Wilson.

Attorney General and Cloud vs. Wilson.

"All vacancies occurring in the offices provided for by this article of the constitution shall be filled by the appointment of the Governor, unless other wise provided for, and the appointees shall hold their places until the next regular election." Con. art. 4, sec. 31.

The meaning of "next regular election" is the question to be settled.

The adjective "next" is evidently used to qualify "election" so as to make it mean the *first* as distiuguished from a *remote* election. It means the *first election in point of time.*

The adjective "regular" is used to qualify "election" so as to distinguish it from some other *kind* of election. It is therefore necessary to assertain what are the several *kinds* of elections designated in the Constitution.

There are two, and only two kinds of elections designated or contemplated in the Constitution: *regular* elections and *special* elections.

Regular elections are those by which the offices are originally and continuously filled according to "stated and established rules," at "periodical times." *Web. Dict.*

Special elections are those by which the offices are filled in case of accident.

The usual election for members of the General Assembly on the first Thursday in August every two years is an instance of *regular* election. An election to fill a vacancy occasioned by the death of a member, at such time as may be appointed, is an instance of *special* election.

It is a useful inquiry, why is it that the Governor is allowed to appoint a Judge in any case? The people elect members of the General Assembly, whose term is two years, and if a member dies, making a vacancy, the governor does not fill the vacancy by his appointment; but the people meet again and elect a new member. And so the people elect a Judge whose term is eight years, and yet if a Judge dies, making a vacancy, the people do not meet again and elect a new Judge, but the Governor appoints. Why is this? Why is the Governor let in to appoint in one case and not in the other? The people are the elective power in both cases, and one is just as important as the other; and they will not allow the Governor to appoint in one case for a single day, and yet they do allow him to appoint in the other for years. The difference is founded on *convenience*, and on that alone. Members of the General Assembly represent a county or a small district, and it is but little trouble or expense for the people to make a new election upon short notice.

And therefore there is no necessity that the Governor should appoint their representative or any county officer, and he is not allowed to do so. But the Constitution provides that all the twelve Superior Court Judges shall be elected not by a county, not by a district, but by the whole State, (unless thereafter altered). And a special election to fill a vacancy would involve delay to notify the people, to nominate candidates to canvass their merits; and much expense to bold and certify the election. And so, for *convenience*, the appointment to fill the vacancy was given to the Governor, instead of being reserved by the people.

It is also a useful inquiry: For how long a time would the people be *likely* to part with this important elective power? As they parted with it temporally to suit their *convenience*, they would resume it as soon as convenient.

The next inquiry is, is such *convenient* time indicated in the constitution?

It is the "stated, established, usual" period where the people meet together for the *first* time after the vacancy occurs to vote for judges of the Superior Courts. Then it is as convenient for them to fill a vacancy resulting from accident, as from the expiration of a term. And it is just as convenient for them to vote for seven as for six.

If then we use "regular" in the sense of usual or established election, we have still to determine what are the usual or eseablished times for elections of judges by the people?

The Constitution provides that twelve Superior Court Judges shall be elected by general ticket, and shall hold their offices for eight years from 1870. That would make the usual, established, or what is the same, the "regular" elections come off in 1878, 1886 and so on, every eight years. But there was a further provision that one-half the judges elected at the first election should hold their first terms for only four years; the effect of which was to have an election every four years for six Judges, instead of election every eight years for twelve Judges, evidently for the purpose of securing a continuous and uniform practice and administration of the law, and at the same time popularizing the system and keeping the Judges and the people close together, with a frequent reminder to the Judges of their responsibility to the people, and a frequent opportunity to the people to make them feel that responsibility. Whether such a policy is wise or unwise, I express no opinion, not because I have none, but because this is not the place to express it.

With this policy in view, and in view of the fact that the people are the electors of Judges, are we not to suppose that the Constitution would have so provided as that as much as possible of the terms of Judges should result from the popular vote? When it is clearly intended that the Judgeship of a district shall be held eight years under the election by the people, can it be that in case of accident it should be held one year under the election by the people and seven years under the appointment by the Governor? Why should the accidental vacancy and the appointment by the Governor have any other effect than to fill the office until the legitimate electors can fill it when they come together at the usual or regular time and places of electing judges; and without the inconvenience of being called together in a *special* election? Beyond all question the people are to elect the Judge at some future, usual or regular election for Judges. There was such a regular election in 1874, four years (six) after the vacancy occurred and was filled by the appointment of the plaintiff; and there will be another regular election for the same purpose in 1878; at which of these regular elections for judges are the people to be permitted to vote for a judge in that district? The language is at the "next regular election." Does that mean the next regular election in 1874? Or does it mean the next after the next in 1878? It certainly was just as *convenient* for them to vote to fill *that* vacancy at the time when they voted to fill six other vacancies in 1874, as it can be for them to fill it when they vote to fill six other vacancies in 1878, Nor can the alteration by statute, since the Constitution, to vote by districts make any difference.

It is insisted that we ought to read the Constitution as if it were "next regular election" *for that office.* If that addition would not alter the meaning, why make it? If it would alter the meaning, where is the precedent for changing language to injuriously affect a popular right. In whose favor must doubtful language be construed? Not in favor of the appointing power of the Governor—he has no interest in it. Not in favor of the appointee, for although he has an interest, yet it is subservient to the public, and doubtful language must be solved in favor of popular right. Nothing is better settled, or more important to be maintained, than that no one ought to exercise the duties of an office to which his title is doubtful; and no one rightfully in office ought to exercise a doubtful power; the Legislature itself ought not to exercise a doubtful power; and it is upon the supposition that they duly considered the question of power and determined it in favor of its exercise, that the courts feel themselves bound by their Constitution, unless in cases *plain* to the contrary. Every *doubt*, in every thing, is solved in favor of popular rights; to this, there is no exception. Cooley's Con., Line 36, 37, 73, 74, 182, 186.

The Constitution having provided for an election of Superior Court Judges in 1874; and that being the next regular election for Judges after the vacancy, and the people having parted with the right to fill the office only temporarily and for *convenience*, and it being reasonable and fundamental *convenient*, it would seem to follow that the election of the defendant in 1874 was proper.

An argument of some force against this view is, that Judgeships should be for the longest time, and that a reasonable consideration of the interest of the appointees would not call him from his practice for a few months or years, and that no good lawyer would accept such appointment. But an analogy unfavorable to this argument was the appointment of Judges under the old regime by the Governor until the next General Assembly, which was sometimes only for a few months, and could not exceed two years. And then the General Assembly resumed the elective power, and sometimes used it with crushing, not to say cruel effect, upon the appointees, under the idea that the public good, or some other consideration was paramount. There is a general idea that to fill a vacancy, is to fill it as full as you would a barrel, so that there is nothing more to do. That is true, where the electing power to fill the office originally, is the same power that fills the vacancy; as where the people elect a member of the General Assembly and he dies, and they fill the vacancy. They fill it full and there is an end. But where the appointing power is not the electing power, then it reverts to the electing power as soon as it can be conveniently exercised, unless the contrary clearly appears. And doubts ought to be solved in favor of the reversion.

It is objected that this construction would disarrange the provision, that the Judges of the Superior Courts are to be devided and kept in two classes, six and six, to be elected every four years; for, if eight are elected in 1874, then only four will be to be elected in 1878. *Non sequitor.* That would be so if the two Judges elected to fill vacancies in terms which end in 1878 were elected not only to fill the *vacancies*, but for four years of the *next term.* That would be an anomally, for which I remember no precedent, either to appoint or elect an officer, not only for the unexpired term, but for one half of the succeeding term. A Senator in Congress is elected for six years; but if elected to fill a three year vacancy, he does not fill *that* three years and three years of the *succeeding* term. So here, when two Judges are elected in 1874 to fill vacancies in terms which end in 1878; *their* terms expire in 1878. They fill *vacancies* and not *terms.*

Again, it is said that if the construction for which I contend, i. e. that the Governor is to appoint until the next regular election for Judges of the Superior Courts, and then the people are to elect to fill the remainder of the vacancy, then, if the vacancy should happen just before the election, say twenty days, so that no election could be held, the vacancy would remain for four years; *Non sequitor.* The Governor can appoint to fill *any* vacancy. He could fill the vacancy for twenty years, and then if the people failed to elect, either his appointee would hold over, as in Battle vs. McIver, or he could again appoint to fill the vacancy occasioned by the failure of the people to elect.

This construction of "next regular election" would seem to be the true one, if considered without the light of the Legislature, Executive and popular action, but with the aid of these, there would seem to be no doubt. The Legislature has construed it to mean the election of 1874. The popular voice so construed it and elected the defendant, and the Executive so construed it and commissioned him. If I had doubts I should yield them.

It is not pretended that construction effects the office of any member of this Court. It is admitted on the argument that it does not. And the Legislative and proper construction is, that it does not. The election of Supreme Court Judges are every eight, and not every four years. There has not been, and there cannot be until 1878, any election for any Judge of the Supreme Court I mention it only to exclude the conclusion that the decision is insensibly baised thereby.

I dissent from the decision.

READE, J.

Good Old Democratic Doctrine.

Our readers will remember that we have often made the remark that the day will soon come when the old Democratic doctrine of States Rights (not including secession, as it was never a part of the principles of the Democratic party,) would be acknowledged by all sections as right, and re-established by the friends of Constitutional liberty and freedom.

And it now affords us pleasure to copy the following article on the subject from the Hillsboro Recorder, whose Editor was an old-line Whig of the straitest sect, and who is as true a Southron and North Carolinian as ever lived:—Charlotte *Democrat.*

STATE RIGHTS.

The time is coming—it is not far off—unless anticipated by a violent rupture of the government, when the policy and principles of the South, condemned and misrepresented by the North, and even by many at the south, will receive full vindication. The idea upon which the Union was formed and a nationality created, was that of a bond between perfectly free and independent soverignties, each State reserving to itself everything not surrendered to the creature of its concessions.

Between this idea and that of centralization, there has been a constant strife, transferred at length from the hustings and from the forum to the field of battle. For, whatever may have appeared the more patent material and tangible causes of the war, it cannot be denied that the doctrine of State Rights really underlaid them all. Inroads upon reserved rights in the shape of ill adjusted, unfair and oppressive taxes; forced and extravagant constructions of the powers of the general government over the subjects of internal improvements, and of currency; and final, interference with and restrictions upon the rights in the property in slaves, compelled the South to make attempt to detach itself from the North and preserve pure and unimpaired the features which in theory had made our form of government so admirable.

The South failed, and the doctrine of States Rights for the while was trampled under foot, and a dominant centralization sprung up on its ruins. So long as the prostrate victim of a disastrous struggle for constitutional rights was the only sufferer, there was none sagacious enough to see the hidden dangers involved in her sufferings. Hate had blinded reason, and vengeance overleaped discretion. But even vengeance itself is sated in all but those who had predetermined to make a wicked use of opportunity, and the Northern people are at length alive to the warnings of Southern statesmen, and to the teachings of history. They are beginning to see that States, such as Louisiana, Mississippi and Arkansas, sovereign in theory, but subjugated provinces in fact, cannot suffer alone. The experience of unchecked abuse of central power would most assuredly be turned to profit, in the overthrow of those States which have so proudly held themselves superior to, and exempt from like misfortune.

The leaven is at work, and if time is given, a few years will see established as cardinal principles the ideas and precepts of the Statesmen of the South.

In this connection may be noticed a singular and marked deference to Southern caution and sagacity in the recent attempt in Congress to engraft upon the Constitution one of the provisions of the Constitution of the Southern Confederacy, which limited the tenure of the Presidency to one term of six years. The vote on the question was a large one, but not enough to carry the measure through Congress. But our example has been attempted, the blow has been struck, and if the country survive its present peril, at a day not far distant, it will be saved all future apprehension from Presidential aspirants to unlimited possession of office.

A "yaller" dog has covered himself with glory as a traveler or pilgrim or quadrupedestrian. He was taken last Fall from Indiana to Kansas. But he didn't like Kansas, and was homesick through and through. He found meat scarce and was averse to diet of grasshoppers. So he tramped it over miles and miles of desolate prairies; he swam the Kansas and Missouri Rivers; and one day, footsore, weary, and lean, he barked at the old door. He was six weeks upon the journey; and the first thing he did upon getting home was to eat his dinner calmly, the next to drive the pigs out of the yard according to his ancient custom. He had learned something, but he had forgotten nothing. If ever a dog deserved a silver collar and unlimited bones for life, he is the animal.