

Daily Charlotte Observer.

VOLUME XXX.

CHARLOTTE, N. C., FRIDAY, NOVEMBER 2, 1883.

PRICE FIVE CENTS.

Come to See Us.

JUST RECEIVED

SOME VELVETEENS PER EXPRESS, AMONG THEM A VERY HANDSOME PIECE OF BLACK AT \$1.00 PER YARD.

LOOK. LOOK. LOOK.

At Our Velvets and Plushes, all Colors. Our Black Velvets are the Best Values that We have Ever Shown on This Market.

JUST RECEIVED, a new lot of BLACK CASHMERES. Don't fail to look at them when you want a dress.

BLACK SILKS, BLACK SILKS,

COLORED SILKS, COLORED SILKS.

Black, White and Colored Satins, Black, White and Colored Moires, Black, White and Colored Surahs, Black, White and Colored Otomans, Black, White and Colored Brocades, Colored Cashmeres from 15c. up, Black and White Alpaca, Black and all colors in Bunting, Fancy Dress Goods, all Varieties, Velvet and Velveteen Ribbons, In black and colors, A large stock of Black Gimps, Velvet Gimps and Velvet Fringes, Ribbons, Ribbons, all colors and grades, Men's and Boys' Rubber Coats, Ladies' and Misses' Gossamers, Gent's, Ladies', Misses' and Truly.

MARGRIVES & ALEXANDER,

NEW ARRIVAL OF GOODS!

This week we will offer a large stock of VELVETS and PLUSHES at much less than their value.

Also a large stock of DRESS FLANNELS.

Our stock of CASHMERES have been replenished in all grades, from 11c to \$1.50 per yard.

Ask to see our new PATENT SHIRT, something very desirable.

This week we will offer to the trade one of the best and cheapest stocks of

LADIES' WRAPS

To be found in the State.

A big drive in BLANKETS.

GOSSAMERS,

For Ladies, Gentlemen and Children.

Many other goods in stock and arriving daily. Come and look at our stock and get prices.

T. L. Seigle & Co.

FRUIT, FRUIT.

—OF—

BANANAS, ORANGES, APPLES,

GRAPES, (Malaga and Concord) LEMONS, RAISINS, FIGS,

CITRON AND CURRANTS.

LARGE ASSORTMENT OF

Fancy Cakes, Coffee Cakes, BREAD, PIES, &c.

D. M. RIGLER.

Elegantly Trimmed Hats

FOR Ladies and Children.

We are displaying EVERY DAY the most beautiful line of all kinds of Millinery ever opened in this city. Our stock is complete in every branch and we always strive to please our friends and customers. We call especial attention to our selection of hats that

The Charlotte Observer.

ISSUED EVERY MORNING EXCEPT MONDAY, BY CHAS. R. JONES, Ed. and Proprietor.

READ THIS!

TO SUBSCRIBERS OF THE DAILY OBSERVER WHO ARE IN ARREARS FOR SUBSCRIPTIONS FOR PAPERS SENT THROUGH THE MAILS.

If you are in debt for subscription you will find the account enclosed in your paper to-day. I had, October first, outstanding on the subscription books of the DAILY OBSERVER, \$2,981.16, two thousand, eighty-three dollars and seventy-five cents of which I accounted for to the Messrs. Harris in the late re-transfer of the paper. I have an amount nearly equally as large due on the WEEKLY OBSERVER, and nearly as much past due in the city. No reasonable man would expect me to carry such a debt on my books. The accounts have been made out, up to the end of the year as a matter of convenience, by a careful clerk, and if there is any mistake I shall cheerfully correct it, but I need and must have a settlement.

CHAS. R. JONES, Prop'r Charlotte Observer and Journal-Observer. (Charlotte, Oct. 26, 1883.)

PARITY ISSUES.

A short while ago a correspondent of the Philadelphia American accounting for the Republican defeat in Ohio, said it was because the Republican party was afflicted with the dry rot, that it had no issue to go before the people on, and hence the people of that State having no other issue to interest them, took up prohibition. Noting this, another correspondent suggests live issues for the "old Republican party, or for the best elements of that party under a new name." "Let," he says, "such a political body, whatsoever may be its composition, inscribe upon its banners and incorporate in its platform the following: 'Universal education, North and South; the abolition of all unnecessary taxes and revenues; cease the payment of the public debt, and grant a reprieve to the great producing power of the nation; legislate the Treasury surplus back into the hands of the tax-payers in each and every State, instead of into the pockets of the manipulators of river and harbor bills, *et hoc genus omne*; and—what is of greater importance than either or all—protection to American labor as against the soul and body destroying encroachments of monopoly as well as foreign competition.'"

Here are undoubtedly some things suggested that would make very live issues, but with one or two exceptions the Republican party has been run in direct antagonism to them. It has been the party of high taxes, the payment of the public debt, for a big surplus in the treasury when it couldn't be stolen, for all kinds of jobs and steals, and has been the special champion and tool of the monopolies, all of which have grown up in this country under its peculiar legislation and fostering care. If the Republican party ever goes before the people on a platform like this it will certainly be under a new name.

It wouldn't surprise us however, when the Republican party falls to pieces, which it must do before long, to see some of these issues come prominently to the front in the Democratic party, or in the party which will be organized to take the place of the Republican organization. The reduction of taxes, holding up on the payment of the national debt, internal improvement appropriation steals, and monopolies have elements of life in them for the party that takes them up and goes before the people on them. Even now there are indications of agitation on this line, which is taking shape and assuming proportions of no little magnitude.

The Philadelphia Press, Republican, accuses Frank Hatton, First Assistant Postmaster General, of fixing the time of departure of the morning trains from Baltimore so as to prevent the Baltimore papers from getting to Washington before the National Republican, of which he is one of the proprietors, was printed, distributed and mailed. It makes also the general charge that he has been running the mails as far as he could in the interests of that paper.

Under authority of an act of the Legislature, the State of Alabama, through a commission, has agreed to settle with Mr. Pratt, one of ex-Treasurer Vincent's bondsmen, for \$60,000. The other sureties will be settled with, separately or sued.

Another writer rises to remark that there are more lawyers and physicians than are needed in this country. Those professions would not be overcrowded if parents did not push sons into them who have not the requisite qualifications necessary for success.

The Philadelphia Press is devoting its respectful attention to Mr. Frank Hatton, of Iowa, who is figuring very extensively in the postoffice department at Washington.

THE RALEIGH MUDDLE.

Decision of the Supreme Court in the case of Doyle and Ellison—What are Not Places of Trust and Profit.

Doyle vs. Raleigh.

The plaintiff, elected an alderman of the city of Raleigh and having taken the oath of office and met and acted with his associate members of the board, was ejected from his seat by a resolution of the body, on the ground of his constitutional incompetency to hold the office under essentially the same circumstances as was the plaintiff, Ellison, whose appeal is determined at this term. There was, however, no successor chosen to occupy the plaintiff's vacant place, in this state of the case the plaintiff has sought an appropriate remedy for his restoration to office in coercive measures against the alleged wrongdoers.

At the time of the election and since he has been acting under an appointment from the Treasury department of the United States at a salary or compensation of sixty dollars per month, as night watchman of the postoffice building in this city, to guard and protect it from depredation and injury. His employment, it is insisted, rendered him ineligible to hold under that clause of the constitution, omitted in the formation of the constitution of 1875, and inserted by an amendment made in 1875, which declares that:

"No person who shall hold any office or place of trust or profit under the United States or any department thereof, or under this State, or under any other State or Government, shall hold or exercise any other office or place of trust or profit under the authority of this State, or be eligible to a seat in either house of the General Assembly, with certain exceptions not material to the present inquiry. Const., art. 14, sect. 7."

It was upon the assumption of this incompatibility that the board of aldermen proceeded in declaring the office vacant, because the person elected could not, under the law, hold it, and exercise the attaching franchises. There is no impediment in the way of the plaintiff's restoration to his seat, even if the aldermen had jurisdiction in the premises and had proceeded in a regular way to pass upon the question of competency if his place as watchman at night is not embraced in the comprehensive and somewhat definite terms in which the disqualification is expressed. We shall not make the attempt to define the precise extent of the words employed, after the unsatisfactory efforts of the counsel of the respective parties to do so; and we shall do all required in this appeal by assigning the places held by the plaintiff on the proper side of the question, which separates those employments in the public service which are, from those which are not, "offices and places of trust or profit" in the sense of the constitution. It is apparent from the association of the "places of trust and profit" are intended which approximate to but are not offices and yet occupy the same general level in dignity and importance. The manifest intent is to prevent double office-holding—that offices and places of public trust should not be accumulated in a single person, and the superadded words of "places of trust or profit" were put there to avoid evasions in giving too technical a meaning to the preceding word.

Mr. Justice Reade declares that "members of the Legislature are not officers. Theirs are places of trust and profit, but not offices of trust and profit." Worthy vs. Barret, 63 N. C., 199.

An office admitting of the remedy by *quo warranto* for a motion is defined by Mr. High and quoted in Ellison vs. Coleman, 86 N. C., 239, "as a public position to which a portion of the sovereignty of the country, either legislative or executive or judicial, attaches for the time being, and which is exercised for the benefit of the public. High Ex. L. Rem., sec. 620.

As an office has some relations to the public, so must those "places of trust or profit" involve the exercise of functions affecting the public in order to constitute a disqualification for other similar places. It is plain the plaintiff, by whomsoever appointed, and at whatever compensation, who is employed mainly to guard a public building at night, prevent its destruction or injury from fire or other cause, is in no sense occupying a place of trust and profit, but is employed in a specific service having none of the attributes to raise it to the dignity of the constitutional office. Without definite information of the extent and kind of service required of the plaintiff, and regarding them such as are comprehended in the name given to the employee, we consider him not holding an office or place of trust and profit from occupying a seat in the board of aldermen.

There is error, and judgment must be rendered for the plaintiff, and it is so ordered. SMITH, C. J.

Stewart Ellison vs. the City of Raleigh and Mayor and Aldermen.

The court states the facts of the case and then says: Without pausing to animadvert upon the very improper summary method adopted to expel a member from his seat without a hearing and the suppression of all discussion of the propriety of the contemplated action of the board, while there can be no serious doubt of the right of a corporate body to vacate the seat of a corporate officer for adequate causes arising subsequent to his taking his seat, since the case of Rex vs. Richards-n, decided by Lord Mansfield and followed by numerous others, we have been unable to find any precedent for depriving a member of his place by the action of a municipal body of which he is a member for any pre-existing impediment affecting his capacity to hold the office. On the other hand the same eminent judge in passing upon the sufficiency of a return to a mandamus, says: "It is admitted that they (the Mayor and Burgesses of Lynn, the defendants) could not remove for want of an original title; and again, the dueness of the election is immaterial, for no corporation could not judge of the title of the party prosecuting his right to the place. King vs. Lynn, Douglas 88.

So in Lord Bruce's case, 2 Strang, 819, the court say that a power of a motion is incident to a corporation according to modern opinion, and this exercise of inherent corporate authority in the cases pointed out by Lord Mansfield in Rex vs. Lynn may be essential to attaining the ends for which the corporation was formed. Angel vs. Ames, etc.

It is not to be supposed that a corporate officer from his office for reasonable and just cause," says Judge Dillon, "is one of the common law incidents

of all corporations." 1 Muni. Corp., sec. 179.

The board of aldermen, thus possessing the power under certain circumstances to vacate the seat of one of their number, (the occasion for doing which, and among them—conduct on his part in opposition to his oath and duty as a corporation, are mentioned by Lord Mansfield) have chosen to remove the defendant for the assigned reason of his incompetency under the constitution to occupy the place, he at the time of his election holding the appointment of janitor or custodian of the court house in the United States in said city, and to elect and put another in his place, who has assumed to act with his associate members and been recognized by them as the lawful incumbent in all their subsequent official transactions. His successor having been thus inducted into the office under color of competent authority even though the motion of the plaintiff was in excess of the power conferred in the charter before operating acts in the body, and effectual in their relations to others as if he filled the place *de jure* as well as *de facto*. The charter confers authority upon the board to fill a vacancy when any occurs in their body and the officer of the body, and the exercise of the vacancy is to be by the exercise of the power of supplying it. Can the plaintiff then avail himself of the remedy by writ of mandamus against the wrong-doers and obtain the ouster of the present occupant and the restoration of the office to himself without the presence in the action of the alleged usurper?

The court then discusses the cases already adjudicated bearing on this subject and decides that mandamus is not the proper remedy if there were no other objection to the present form of proceeding, an insuperable obstacle is presented in the fact that the court is called on to pass upon the rights of one who is not a party to it. This is inadmissible to his being affected by the result.

This action or information 366, c. p.) was the method of procedure adopted in Cloud vs. Wilson, where the defendant entered into the office of judge by virtue of an election authorized by the legislature to fill an unexpired term and it was sustained although the statute was in violation of the constitution and all done under its sanction was absolutely null. The controversy was between an officer *de jure* and one *de facto* and this was recognized as the legal method of determining it.

We do not propose to inquire whether the office or place held by the plaintiff at the time of the election and since is an "office or place of trust or profit" within the meaning of the constitutional amendment of 1875, which is but the restoration of a clause contained in the amendments made in the constitution of 1835 and omitted in that of 1868, for it is no easy task to run the discriminating line which separates such offices and places from employments in the public service which are not embraced in those terms. Nor will we consider how far the court should go in reinstating in office one improperly removed but who may appear disabled and forbidden by law to possess it and exercise its attached privileges and rights in the opinion of the court. It is enough for us to see that the right to the office is drawn in question and that one who entered in the form of law and is in the possession of the place discharging its duties is not to be affected by the decision without having an opportunity to be heard. It is certainly inadmissible to command the defendants to receive the plaintiffs into their body without at the same time removing their appointees, for the ward cannot have a representation in excess of the number allowed in the charter, and if this is to be the effect it is just to give him a hearing, as it was to give the plaintiff a hearing before his expulsion. The argument on both sides has been able and exhaustive of the learning on the points discussed, to only one of which, preliminary to any examination of the merits, we have found it necessary to give attention.

There is no error, and the plaintiff is not entitled to his writ. It is so adjudged. SMITH, C. J.

U. S. Treasurer's Statement.

WASHINGTON, Nov. 1.—The debt statement issued to-day shows the reduction of the public debt during the month of October to be \$10,304,798.83; the decrease in debt since June 30, 1883, \$39,564,470.33; cash in treasury \$34,346,501.93; gold certificates outstanding \$83,328,940.00; silver certificates outstanding 299,579,141.00; certificates of deposit outstanding \$12,620,000.00; refunding certificates outstanding \$325,850.00; legal tender outstanding \$34,481.81; fractional currency outstanding \$6,990,808.31.

A Pert Old Lady.

Elizabeth, Ga. Ex. Mrs. Saltar, a lady probably seventy-five or eighty years of age and who lives about two miles from town, walks to church here every Sunday and frequently at nights. She says that she never took a dose of medicine but once in her life and that was a dose of epsom salts fifty years ago.

An Unbrotherly Gift.

Cincinnati News-Journal Item. "If you want a Sherman for President, take John," remarked a witty old stage-gist, Gen. Sherman, says Mark Twain destroyed his elder brother with a gift of his Jimtown Tenn. lands—the more a man has of which the poorer he is—so unfraternal an act has not been done as this unbrotherly gift of General Sherman to John. Considering all that surrounds those chances, it was a terrible gift to make a brother.

CURED MY WIFE'S WEAKNESS.

—From Evansville, Ind., the home of our correspondent, Mr. John B. Patterson, comes the following: "Samaritan Nervine cured my wife of a case of female weakness." It's an extract from Mr. Patterson's letter. \$1.80.

Further Failures Feared.

LIVESTOCK, November 1.—Anxiety and distrust continue in the cotton trade and further failures are supposed to be impending.

A fine constitution may be broken and ruined by simple neglect. Many bodily ills result from indigestion, constipation, and a general debility. A single dose of Ayer's Pills to correct this evil, and restore the system to natural, regular and healthy action.

Special Announcement! WITTKOWSKY & BARUCH New Hosiery

FOR LADIES, MISSES AND CHILDREN, IN NEW STYLES AND COLORINGS.

We have just received another lot of Foreign Hosiery, among which will be found many novelties for Ladies, Misses and Children. The choicest lines ever shown in this section, as follows:

ELEGANT LINES OF Black and Colored LISLE HOSE, ELEGANT LINES OF Black and Colored CASHMERE HOSE, ELEGANT LINES OF Black and Colored MERINO HOSE, ELEGANT LINES OF Solid, Colored and Fancy Striped HOSE.

OUR NEW DEPARTURE.

----Ladies', Misses', and Children's Underclothing.----

We are daily receiving fresh consignments of the latest styles in Ladies' Night Gowns, Ladies' Chimese and Drawers, Skirts, Corset Covers, etc., etc

Ladies Balmoral and Walking Skirts.

We are desirous to call particular attention to our elegant stock of Ladies' Satin Felt, Flannel and Cloth Skirts, together with an entirely new style of skirt, hand knit, called "THE LADIES' FAVORITE SKIRT."

KNIT GOODS.

Our assortment of knit goods is very handsome and comprises everything in the way of Jackets, Coats, Hoods, Leggings, etc., at the very lowest possible prices.

WE ARE NEVER UNDERSOLD BY ANY HOUSE NORTH OR SOUTH.

WITTKOWSKY & BARUCH CHARLOTTE, N. C.

Look and Observe.

PRIOR TO REMOVING TO OUR

New Stand Under Central Hotel

—WE OFFER OUR—

Entire Stock at Cost. No Humbug!

W. KAUFMAN & CO.

Will sell their entire stock of Fall and Winter Clothing

At Cost!

Also entire stock of Gent's Furnishing Goods, Boots and Shoes, Hats and Caps,

AT COST! AT COST!! AT COST!!!

Men's, Boys', Youths' and Children's Overcoats, Children's Cassimere Suits, 4 to 11, at \$2.25, less than manufacturers' prices. Call early, For the next 60 days only. Now is your chance. Call and be convinced. Remember, NO HUMBBUG, but all goods at COST!

W. KAUFMAN & CO.

Springs & Burwell.

JUST RECEIVED,

100 BARRELS

PATENT ROLLER

FLOUR,

THE FINEST EVER

OFFERED

IN THIS MARKET.

800 BUSHELS

BOLTED MEAL,

500 BUSHELS WHITE CORN.

SPRINGS & BURWELL.

FOR SALE.

New Stock Arrived.

CHINA, CROCKERY, GLASSWARE HOUSEFURNISHING GOODS.

All the Latest Styles.

We call particular attention to

MOSSROSE and GOLD Decorated TEA SETS, 44 pieces, \$7.50. DECORATED CHAMBER SETS, from \$4.00 up. DECORATED DINNER SETS, from \$20.00 up. WHITE CHINA DINNER SETS, from \$10.00 up. STEAK BROTHERS, 75 cents. CHILDREN'S CARRIAGES, from \$6.50 up.

—A FINE STOCK OF—

PLATED WARE,

GLOCKS, BRONZES, AND FANCY GOODS.

Very respectfully,

LUDOLF & HARTFIELD, Sole. to J. Brockfield & Co.

DOVE'S True Turf Oil.

TO PHTHISICALS, FARMERS, LIVERY STABLE-KEEPERS AND RAILROAD MEN AND TRADERS OF FAMILIES: If any member of your household, from parents to the merest infant, are afflicted with Consumption, Sore, scurvy or other ailments, such as Head, Burns, Wounds, no matter how severe, or of how long standing, or from whatever cause produced, send and get a 50-cent bottle of DOVE'S TURF OIL, and we guarantee a cure or no pay. It cures before other remedies begin to act. It is equally applicable to all the Ulcers or Sores, or inflamed surfaces of all domestic animals, or anything that grows on the face. One or two applications will do it. It is necessary to neutralize the action of the virus and heat the Ulcer. It arrests at once the progress of Phtisis and removes the inflammation left in the throat of the diseased. For sale by all druggists and country stores. Ask for the "Turf Oil" Spelling-Book and Recipe with certificates of cures. FURBELL, LADD & CO., Richmond, Va. May 9-19.