

THE SENTINEL.

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JOSIAH TURNER, JR., EDITOR.

WEDNESDAY, JANUARY 19, 1870.

ADUBED THEM TERRIBLY.

The Standard says we "adubed the city Democrats terribly" in our speech at the Court House, on Monday, for not turning out. We don't think Pike could prove the truth of what he says by Galloway, who was present and heard all we said. No man heard this "adubing," except Pike, and he fails to tell what we said that was abusive.

As to the throwing Jim Jones, the colored janitor of the Court, out at the window, of which Pike would make so much, we have to say he had run for something to make capital out of. While we were speaking, Jones interrupted us by saying, he wished to say a word; and one of the boys cried, "Put him out! Put him out!" We said, "No, Jones shall be heard. It is Judge Settle who gets men, and we will not imitate his example."

As to the rest of Pike's article about the Democrats desiring to deprive the colored race of their rights, that is all booh.

SUPPOSED CORRESPONDENCE BY TURNER THE EDITOR OF THIS PAPER AND HIS ATTORNEY GENERAL.

Editorial Office, Jan. 19th 1870. Hon. L. P. Olds, Attorney General, Raleigh, N. C. I recently hired a horse and sulky in the city of Charlotte, for my trip to the North Carolina District. While a friend was driving, near the house of Richard Moore, in the county of Polk, the horse fell and broke both shafts of the sulky. The said horse was very dull, and I had worn out the whip completely on him.

In connection with this matter I desire your opinion on two points. 1. Am I bound in law to make good the whip? 2. If I am bound to make good the shafts, which whip, perhaps, ought to decay about the neck of the horse, turned to splinters, hickory splinters, with the bark nicely peeled off, and securely attached to the remnants of the broken shafts as Dick Moore, with a supply of rope and whang leather could make them.

Every man in the State, except, perhaps, His Excellency, your father-in-law, and the committee who purchased the Penitentiary site on Deep River, would be glad while you are on the subject of opinions, to render one in regard to the legality of the \$100,000 bonds issued to Col. Heck and Gen. (I believe he is a Gen.) Pray for that lead.

You will give me your opinion on the above points, it will oblige many tax payers, and perhaps, be of service to future sulky hirers, as well as to your humble servant, JOE TURNER, Jr., Attorney General's Office, Raleigh, Jan. 11th, 1870.

[As we stated yesterday, we have no doubt the Attorney General is so busy as to be unable to form an opinion on any subject, and according to promise we draft one for him, which we have no hesitation in believing he will readily adopt, which is as follows:]

Hon. Joe Turner, Jr.—You are aware that I informed His Excellency, my father-in-law, the Governor, that many defaulting voters were daily being returned to the consideration of the Crown Law Officer, (meaning myself), and that he had proved himself equal to the emergency, because, to all the opinions delivered there had been the best of error, and, the office ought to have a fixed salary attached to it. But to the subject matter of your inquiry: It is very clear to my mind, and I think I am sustained by the authorities (though, to tell the truth, I don't know which they are) that you are not bound to make good the whip, to the complainant. I lay down the general principle, that you assumed a horse to be your property, and did not possess, per se, the will to move, it became the duty of the owner to furnish the necessary stimulus, in the shape of the whip, to produce the desired property in the horse, to wit, to disposition to go. The owner should have furnished a better horse or a tougher whip. In the second place, usually, the horse belonged to the owner, and the whip, being in the same hands, we may reasonably conclude that one was intended for the empowerment of the other, and that the horse got the benefit of the whip, and I hold that in this case the owner would have an cause of complaint, whether the horse might have been injured, but the whip, being in the same hands, and the horse got the benefit of it, you are not at all responsible, nor obliged to, make good the whip. One's own demonstration, as to the sulky, the question is more difficult and complex. In one view of the case, it is clear you must pay for a pair of new shafts; but from another view it is equally clear you should not. The question may arise, was the sulky pay over? If so, and you were drunk, why you are clearly bound, although the immediate cause of the breaking was the fall of the horse. If

you were sober, and the breaking produced by accidental falling, (and I hold here that the question hinges on the intention of the horse) you are clearly not responsible.

Your suggestion that the horse was drunk, is hardly tenable. I have never heard of a horse and sulky being drunk, and there is no instance of such a case that I remember in "the books." I remember hearing of a case of a horse and sulky being drunk once, in Rockingham, when Judge Settle's Law student was driving, but I cannot find the case in Phillips' Reports, and therefore cannot avail myself of the precedent thereon on this question. In a case which I put on my mind in this matter, I propose that it be referred to the Supreme Court. When that body shall render an opinion on the question of the Legislature holding over, they can add an opinion on the sulky question in a postscript, the one being constitutionally, as much a question before them as the other.

With sentiments of high regard, I subscribe myself, as I am by virtue of His Excellency's appointment,

L. P. OLDS, Attorney General of N. C.

OPINION OF HON. B. F. MOORE.

We publish by permission an opinion of B. F. Moore, Esq., given sometime ago to a friend, upon the duration of the legislative term of the present General Assembly. In construing the constitution, we should keep constantly in view, our political condition at the time of framing our constitution. In the midst of a confusion, consequent upon the results of a protracted civil war, the convention sat to form anew the great fundamental provisions of the legislative, executive and judicial departments. The convention assembled in the early part of the year, and a prominent purpose with them, body was to provide, so soon as was practicable, a settled form of Government for the State.

The prospect was that this might, and probably would be accomplished, as early as the ensuing June, and before the regular and long established period for electing State officers. One of these departments, the judiciary, had hitherto been independent of the popular vote. The Convention determined to subject the election of the officers of all the departments to the popular vote, and to provide for the election of that will, and to provide for its continuation thereafter, at stated and regular periods of time.

Having fixed the tenure of office in the several departments, they proceeded to put the government in regular operation at the soonest convenient time. The term of the executive officer, being fixed at four years, it was deemed desirable that a regular beginning should be on the first day of January, and so it was fixed. But it was necessary, in order to prevent a vacancy, or an independent election for a very short time, that the interval between the first election and the first day of January, should be filled, and it was therefore provided, by article 3, concerning the "Executive Department," that the Governor and all its other officers, who might be elected at the first election, should "assume the duties of their office ten days after the approval by the Congress of the United States, and should hold their offices for the term of four years from and after the first day of January 1868."

In this way the fractional part of the year was added to the regular term, and a second and inconvenient election was avoided and the first day of January, so long established as the commencement of the official term of the Executive, was preserved.

In regard to the judicial term, which for the first time in our political history, was limited to years, it was provided that it should endure for eight years, and in the outset should begin at the same time when the Executive and legislative term began to run, and it was approved by the Constitution by the Congress of the United States.

The provision in Sec. 20, Art. 4, is explicit, that the term of the Justices of the Supreme Court shall be eight years, and that the term of the Justices of the Superior Court shall be for the like time, with the proviso that six of these twelve Justices should hold for four years only, and the other six for the full term of eight years. The Justices, respectively, for the long and short terms, were to be determined by lot, under the superintendence of the Justices of the Supreme Court.

The provision in sec. 22, (which includes, among the other officers to be chosen under Art. 4, the Judges and Justices) that they should "hold their offices for the terms prescribed for them respectively, next ensuing after the next regular election for members of the General Assembly," will have a clear meaning consistent with the terms of eight years for full term, and four years for a half term, if the expression, "next ensuing after the next regular election for members of the General Assembly," was intended to refer to the legislative period then fixed for election of the members of the Assembly, to wit: the first Thursday of the ensuing year, and it is clear that, when in the minds of the Convention, these sections 20 and 22 become harmonious; and we shall not be obliged to make eight years mean one, or twelve years, nor go beyond the clear meaning of section 22; for it was manifestly intended, by the concluding clause of the section, that the time, which should be added to the first four years, and should not be added in the election to be made by the Justices of the Supreme Court. Any other construction will give to the six Justices of the Superior Court an official tenure of six years, and a fraction of a year, if the regular election meant to be in August, 1870; and a tenure of eight years and a fraction, if the regular election meant to be in 1873. There is no escape from this consequence. Moreover, the official term cannot be equally divided between the incumbents of it during ten years; for, if it were so divided, the first class would go out in 1873, a year when there can be no election for members of the General Assembly. So that the term, in order to be equally divided, and successive elections of 1800s, which members of the General Assembly are elected, should be with the legislative term of August, 1868. This long established day was in the minds of the framers of the Constitution in passing this section. This construction, adopted by the Supreme Court, answered every end in view. It disposed of the fractional time, by adding it to the official term, and enabled the Justices to make the allotment of four, as the half of eight years. The expression, "next regular election," was not intended to mean an actual election but the time then prescribed by an existing law for a regular election of members of the General Assembly, to wit: known law regulating elections. The last clause of this (22) section, "But their term shall begin upon the approval of this Constitution by the Congress of the United States," was evidently inserted only for the purpose of preventing the inconvenience of a vacancy not covered by a regular term, and not to necessarily designate the first term of office. Where was

the need or propriety of such extension? None can be suggested, and none ought to be allowed, unless there be no other allowable construction. Let it be borne in mind, too, that a contrary construction of these words will also extend the term of office of the Justices of the Superior Court to August 1870.

Having disposed of the official tenure of the officers of the executive and judicial departments, let us turn our attention to the legislative. All the provisions of the constitution in reference to this branch, are to be found in art. 2, (being those which declare that the members of each House shall be "biennially chosen" by the voters), and sections 27 and 28, which are in the following words:

Sec. 27. The term of office for members of the House of Representatives shall commence at the time of their election; and the term of office of those elected at the first election held under the constitution shall terminate at the same time as if they had been elected, at the first ensuing regular election.

Sec. 28. The election for members of the General Assembly shall be held for the respective districts and counties, at the places where they are now held, or at the places hereafter to be held, in such manner as may be prescribed by law, on the first Thursday in August, in the year 1870, and every two years thereafter. But the General Assembly may change the time of holding the election. The first election shall be held on the first Thursday next after the ratification of this constitution by the voters of the State, and the General Assembly then elected, shall meet on the 15th day after the approval thereof by the Congress of the United States, if it fall on Sunday; but if it shall fall on a day other than Sunday, it shall meet on the next day thereafter. The members then elected shall hold their seats until their successors are elected at a regular election.

In interpreting these provisions it is our duty to harmonize them if possible, each one with the others; and to give practical force to the several provisions secured by the framers of the constitution. It is but reasonable to suppose, that the framers of the constitution intended honestly to carry out this great fundamental principle of popular rights; and it would be a melancholy evidence of hypocrisy to attempt to evade the plain and unequivocal language of the constitution, by any stratagem designed to prevent its execution; and that while biennial terms, in one clause, were plainly and emphatically announced in direct words, as a right of the people, other words of dark and obscure meaning used in a convoluted sentence of ambiguity, had already been employed to cheat the people so unscrupulously given. I will not presume the existence of such an intent, and, though the phraseology is wanting in perspicuity, I will proceed to defend their integrity of purpose by a fair and reasonable interpretation of their language. Here, again, we must bear in mind, that the framers of the constitution intended to restore the State to the Union, and they intended to fix a convenient commencement of the legislative term, or to adopt (the first Thursday of August), which had been found acceptable to the people after so long a trial, still there would, in all probability, be some objection to the first regular election, unless a General Assembly, unless a General Assembly were provided for that short time only; or unless in order to avoid such inconvenience the term of the first General Assembly should be made to embrace this fractional time by adding it to the term. The latter mode was adopted, hence it was provided by Sec. 27, while the eye was kept steadily on the general biennial term, that the "terms of office for Senators and members of the House of Representatives shall commence at the time of their election." The time of election is thus made in the instance of the first election, the first regular election, and the first General Assembly. The remaining paragraph of this section was intended to proclaim the termination of the first term. It declares "and the term of office of those elected at the first election held under this constitution shall terminate at the same time as if they had been elected, at the first ensuing regular election." The "ensuing regular election," here intended, must also be read in reference to the accustomed period of regular elections then fixed by law, to wit, the first Thursday in August, 1868.

There is not only no forced interpretation in giving to the expression this meaning, but it accords with the constitutional plan marked out for the executive and judicial departments, and carries out, in a practical manner, the security of the biennial term. This interpretation becomes manifest when we read sec. 29, soon after following, wherein it is most unequivocally and emphatically commanded, that the election of members for the General Assembly shall be held for the respective districts and counties, on the first Thursday in August, in the year 1870, and every two years thereafter. Now, if the interpretation put on sec. 27, when standing alone, be the subject of doubt by reason of ambiguous words; there can be none from this source in sec. 29.

This section is clear and explicit, and reads with details all of which are sufficient in meaning, so harmonious, and in full accord with the requirements of biennial sessions. Let us examine it in all its parts. It declares as follows:

1. "The first election shall be held when the first General Assembly shall be elected at the constitution."

2. "The General Assembly then elected, shall meet on the fifteenth day after the approval thereof by the Congress of the United States."

3. "The members then elected shall hold their seats until their successors are elected at a regular election."

4. "The election for members of the General Assembly shall be held for the respective districts and counties, on the first Thursday in August, in the year 1870, and every two years thereafter."

This construction of details distinctly sustains the law of adding the fractional time to the regular term, which shall be elected under the constitution. The time of the meeting—the duration of their term to a general day; and that, on the day, another General Assembly shall commence being. There is nothing left out of this section to be supplied by any other, but a regular election, when the members of office of the members then elected on the first Thursday of August 1870, shall commence. This is declared by the first clause of section 27, to be "at the time of their election." It is obvious, therefore, that if the provision at the close of section 27, postponing the legislative term of office, were directly and intentionally in conflict with that in section 28, (and there is no escape from this dilemma, if it be construed to extend the term, 1873) we must reject, in toto and without qualification, the one or the other. That which will strike the important question, which of them shall be accepted as the law, is to be decided, so that the members then elected, shall be elected at the first term to August 1873, ignores the spirit

of section 28, of the "Declaration of Rights," allegorically and creates the provision for biennial sessions, prolongs the term to more than four years and strikes the voice of the people during all that time without any apparent cause, elongates the judicial term to twelve years, and utterly deranges the allotment of the tenure of the Superior Court judges; if it section 29 which respects the "Declaration of Rights," acknowledges and enforces biennial elections, restricts the legislative term to two years, preserves the judicial term of eight years, and allows a possible and practical allotment of the tenure of the officers assigned to the judges of the superior courts.

If the acknowledged rule of construction, or the spirit of the constitution, be allowed to speak, every doubt vanishes at the time of either, and section 29 will be accepted as the true exposition.

I am respectfully yours,

B. F. MOORE.

For the Sentinel.

MEETING IN ALBANY.

A meeting of the citizens of Alamance county was held at the Court House, in Graham, on the 8th of January, 1870, to express their views in regard to the state of the country.

The meeting was organized by calling to the chair, James Gant, Esq., and requesting Messrs. J. A. Long and J. L. Scott, to act as secretaries.

The chairman explained the object of the meeting and appointed the following committee to draft resolutions expressive of the views of the meeting, to wit: Messrs. J. E. Boyd, J. A. Graham, W. R. McClary, A. H. King, Thomas Egan, Freeman Long, A. H. King, John Egan, and James Gant.

When the committee was out, Dr. J. A. Moore, our worthy representative to the Legislature, being loudly called for, entered the meeting in his usual elegant style, showing by facts and figures our liabilities as a State, and also, the bad results incident to and growing out of the "shorter Bill," should it become a law. The committee then made the following report which on motion was unanimously adopted:

Resolved 1st, That the masses of the people are the sovereigns of this land, and that they have the right to meet together and discuss the public concerns of the State, when it becomes all good citizens of North Carolina to unite to save the State from bankruptcy and ruin, and bring about that state of harmony, property and peace which the country so much needs.

2d, That the representatives in the legislature of the country are the servants and not the masters of the people, and should work for the good of the people and not to enrich themselves by corrupting the government and oppressing the people.

3d, That in our opinion the terms of the present members of the Legislature of this State cease on the 1st Thursday in August, 1870, and the people voted for them for that period; and any resolution in effect of their term by which they determine to hold over for four years will be a plain usurpation of power which was not granted to them by the people, and in utter disregard of their trusts as public officers.

4th, That we were the friends of peace and good order and the enemies of all violence, and that we were the friends of all who were engaged in the peaceful and lawful pursuit of their duties; and that we were the friends of all who were engaged in the peaceful and lawful pursuit of their duties.

5th, That the officers of the law have not been disturbed in the execution of their duties; and that peace and good order has been preserved, and we believe the course of justice and the maintenance of a very competent to maintain the laws of the country.

6th, That we look upon the military bill lately introduced into our legislature as a measure which perpetuates a greater wrong than the one it is intended to prevent; that because of the people's right to be free from the oppression of a standing army, it is no reason that the lives and property of all should be hazarded, that a military despotism should be inaugurated, the great writ of Habeas corpus suspended and the liberty of the people destroyed. That the introduction and enactment of such a bill would be an act of gross and deliberate violence, and that we are opposed to its passage, and that we are opposed to its passage, and that we are opposed to its passage.

7th, That we are in favor of and demand that the taxes levied and collected for the purpose of education in the State be applied for that purpose and no other, and that we are opposed to any measure which would deprive the poor children of this State of education in order to pay Legislators \$7 per day to ruin the people.

8th, That universal suffrage is a dead issue, and that the colored man is secure in all the privileges which his new eyes in a fight settled beyond all controversy, and that we are opposed to any measure which would deprive the colored man of his rights, and that we are opposed to any measure which would deprive the colored man of his rights, and that we are opposed to any measure which would deprive the colored man of his rights.

MISCELLANEOUS. A NEW DISCOVERY!! PHALON'S "VITALIA;" Salvation for the Hair.

Phalon's "Vitalia" differs utterly from all the hair coloring preparations heretofore used. It is liquid, sweet smelling, precipitates no muddy or slimy matter, requires no shaking, imparts no stain to the skin. Hold it to the light and it is clear and cloudless. It leaves no mark on the scalp; yet it reproduces in gray hair the natural color that time or sickness may have bleached out of it.

Phalon's "Vitalia" is for one sole purpose, that of reproducing, with absolute certainty, the natural color of the hair. It is not intended as a daily dressing, nor for removing scurf or dandruff; nor for curing baldness; nor for stimulating the growth of the hair. These objects may be accomplished with the Vitalia, by Phalon's "Vitalia."

The "Vitalia" a harmless and unequalled preparation for the reproduction of the original hue of gray hair, and nothing else. This is accomplished in from two to ten applications, according to the depth of shade required. Sold by all druggists Dec 21, 1860. cod. 100.

UNLIEK MANY OTHER ILLUMINATING Oils, is perfectly pure, and free from all adulterations or mixtures of any kind. It emits no offensive smell with a burning, gives a soft and brilliant light, and can be used with the same assurance of safety as gas. Chemical processes it is the best and most illuminating oil ever offered to the public; and insurance Companies and large oil consumers the use of the "Astral Oil" in preference to any other. It is now burned by thousands of families, and in no instance has any accident occurred on its use; a lamp filled with it, if upset and broken, will not explode. To prevent adulteration, the "Astral Oil" is packed only in the Guaranty Patent Cans, of 1 gallon and 5 gallons each, and each can is sealed in a manner that cannot be counterfeited. Every package will contain our warrant. Be sure and get some, but the quality article. Phalon's "Astral Oil" for sale by Dealers everywhere, and is wholesale and retail by the proprietors. Geo. W. H. BUCKNER, 108 FULTON ST., NEW YORK. F. O. Box 3100.

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ST. JOHN'S COLLEGE. THE BOARD OF DIRECTORS OF ST. JOHN'S COLLEGE, Oxford, N. C., is authorized to issue policies for a term of years to any suitable person who will undertake to establish in them a Male or Female Seminary. The buildings are large and commodious; all things go with them about eighty acres of land, which can be seen by persons, registered letter, on application to the Board of Directors, Post Office Order or by mail. HYNANS & DANCY, Commissioners Merchants, Norfolk, Va. Jan 11-50

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