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TRIAL OF THE JUDGES

A CONDENSED REPORT OF THE IMPEACHMENT PROCEEDING.

POWERFUL ARGUMENT FOR DEFENSE.

Conclusion of Judge Furches' Testimony—Justices Montgomery and Douglas Testify—Judges not Influenced by Political Considerations—A Partisan Trial for Political Purposes

(Continued from Last Week.)

Q.—"How can a rehearing be arrived at in cases where a case goes off the docket?"

[Witnessed explained.]

Q.—Why did you, the court, not entertain the request of Harris alluded to?"

A.—"Because there was nothing before the court." The rules of practice before the Supreme Court were then explained, in response to questions.

Continuing, the witness said:

"If Harris had brought the matter up before the court in the way I thought proper I should have decided in his favor—that the clerk should issue the writ."

"While there is no printed rule about filing opinions after court adjourned, there is a rule among the members of the court that no dissenting opinion shall be filed after the opinion in the case is filed, except by consent. I have never filed a dissenting opinion in that way, but I believe some have been so filed by unanimous consent.

"My recollection is that the volume of the Reports for that term was already printed at the time the request of Judge Clark was made, and if admitted would in that case have to be priated in a subsequent volume of the Reports."

Q.—"Did you have any interest in the White case?"

A.—"None on earth, except to do my duty as a judge."

"I did not know Mr. White; never saw him, until this week, in my life, and had no sort of interest in the man.

"I never mentioned this case to Colonel Kenan at any time unless he mentioned it to me first—in his office, in conference or anywhere else.

"I never mentioned this case to either Mr. Ayer or Mr. Worth in my life. I have nothing to do with their connection with the matter.

"It never passed my mind. I never thought Ayer or Worth or any ministerial officer would refuse to obey an order of the Supreme Court. I never thought of asking either of them anything on the subject."

Judge Montgomery said to Judge Clark:

"You have been to Treasurer Worth and threatened him if he obeyed the order of this court."

Judge Clark said he saw him (Worth) at his office at Worth's request. But Worth said Clark did not come at his request, but voluntarily.

Judge Montgomery said:

"Judge Clark said to Mr. Worth that if there be a mandamus 'there will be three vacant seats over yonder in the Supreme Court room.'"

Judge Montgomery said to Judge Clark:

"Worth says you came to him of your own accord and not by invitation."

Judge Clark did not deny it.

"When respectable counsel come into our court with record made up, I should take it to be a reflection on respectable counsel to go hunting around and—"

(Mr. Allen of the prosecution objected.

Judge Furches stated that he did not desire to inject any remark that was improper or out of order.

Q.—"In the White vs. Auditor case were you influenced in any way by political or personal considerations?"

A.—"I again answer I was not. I had never seen and did not know Mr. White. I knew nothing of the auditing of the claim of White. I have never seen any of the papers introduced here the other day from the Auditor's office, and know nothing of them."

This closed the direct examination

HIGH CHARACTER OF CHIEF JUSTICE FURCHES.

The first "character witness" examined was Hon. William M. Robbins, ex-Congressman, and in years agone considered one of the greatest Democratic campaigners in North Carolina.

He was examined by Mr. Osborne of counsel for the defense.

"Do you know David M. Furches?"

"Yes: for 35 years I have known him well, intimately."

"What is his character and general reputation?"

"As good as that of any man in North Carolina, for truth, honesty, and integrity—though I always differed from him in politics," added the witness.

Cross-examined by Mr. Watson:

"Something of a politician, wasn't he—has frequently been a candidate for office, has he not?"

"Yes, he has been a candidate for office. He ran against me once for Congress, I turned him down. He was generally defeated because he resided in a strong Democratic county. His politics never interferred with our personal friendships—and I learned to love him!" declared the venerable witness with emotion.

Asked by Mr. Watson if Judge Furches was not a "bitter partisan," Major Robbins replied:

"No more so than you or I, Mr. Watson—I hated his politics, but loved the man.

"After canvassing the district once for sixty days together, we were as friendly as brothers personally, though running against one another, and we remained so after the canvass was over."

Mr. John B. Holman, ex-member of the Legislature from Iredell county, was the next witness. He said:

"I am a resident of Iredell county, and have represented my people in the Legislature.

"I have known Judge Furches for 40 years and more. At one time I resided some 40 miles from him, but since he removed to Iredell to live I have resided within 12 miles of him.

"His general reputation all this time, has been good."

Cross-examined by Mr. Watson, witness said in response to question to that effect, that Judge Furches had been a strong party man and some had regarded him as "bitter."

Q.—"Was he not regarded as so bitter that gentlemen of opposite politics refrained from mentioning politics in his presence?"

A.—"I cannot say that. They did not take the liberties with him, politically that they did with some others, in discussing politics."

On re-direct examination Mr. Holman was asked by counsel this question:

Q.—"You have always been opposed to him in politics. I ask you if he was at any time 'bitter' that his politics interfered with your personal relations at any time during all these years?"

A.—"No, sir; we have always been and remain on very friendly terms."

Mr. J. H. Hoffman, another character witness, said that he had been the "next door neighbor" of Judge Furches for many years and a near neighbor for twenty-two years; had known him well during all that time.

"His character and standing is very high—as high as that of any man in Iredell county, as to honor and integrity."

Dr. S. W. Stephenson had known Judge Furches intimately for twenty-five years; known him as well as I do any citizen of our county.

"His general reputation and character is as high as that of any man. Mr. Holman's character is good, also."

QUESTIONS BY SENATORS.

Through the President of the Senate Senators Woodard and Henderson propounded several questions to Judge Furches.

Senator Woodard's question was: "If the Supreme Court did not direct the clerk to issue the writ, what complaint, if any, was made by the court when it ascertained that the writ had been issued?"

To this Judge Furches responded as follows: "None, by me. And the evidence here says none of either members of the court, except Judge Clark."

The questions of Senator Henderson were promptly answered by the witness, including the following:

Q.—"Why was it necessary to issue a mandamus against the Treasurer before the debt had been determined by the court or Auditor?"

A.—"It was my understanding that the amount of salary was the question before the court, and that was determined by the court."

Q.—"How could the clerk of the court know what the Auditor had done or would do in determining the amount of the claim?"

In answering this and other questions of like purport the witness stated, in effect, that the court only decided the legal question that White was a State officer and entitled to his pay, $400 a year, and it was with the Auditor to determine the claim. He did not know how many writs of mandamus had been issued since he was on the bench, or whether the record in this case showed that the judgment was satisfied.

JUSTICE DOUGLAS TESTIFIES.

The direct examination of Justice Douglas was conducted by Governor Jarvis.

The witness said he was born in Rockingham county, North Carolina, and was elected to the Supreme Court bench in 1896, entering upon the duties of judge and being sworn in on the first day of January, 1897, the February term being the first term held after his induction into office.

Q.—"Which was the first office-holding case that was heard after you came in?"

A.—"The case of Wood vs. Bellamy, and those of Person vs. Sutherland and Lusk vs. Sawyer were argued at the same term—the 'asylum' cases."

Witness then gave testimony virtually repeating the evidence given on the previous day by Judge Furches.

Asked if the testimony given by Judge Furches was the same as he understood it, the witness replied that, essentially, it was.

In the course of the testimony Judge Douglas said that the same principle as in Wood vs. Bellamy and the Day case also obtained in the White case; that it makes no difference whether the office taken from White was given to one man or a dozen. The fact remained that White was deprived of a vested right.

He was then questioned on the White case and said that the case was advanced because State cases were usually when the public interest was involved.

The Supreme Court adjourned in June and witness was asked why it was in session so long. Judge Douglas replied in part:

"I was largely responsible for that, I think. My health had not been good and I was kept very busy with some important cases. The decision in the case of Debnam vs. the Telephone Company, involving the constitutionality of the Craig act, was given me to write. The court was left open so that I could file these opinions, Judges Clark and Montgomery being here.

He said he knew nothing of the White case except as it came up on agreed suit. The case was argued and a majority of the court held that he was entitled to his mandamus. He had not met White until a few days ago.

Continuing, he said that after the court left and went home the next he heard of it was when Mr. Harris came into court and complained that he could not get the money. Judge Douglas, when questioned, gave about the same description of the incident in the court room when Col. Kenan asked for instuctions. Col. Kenan wanted the court to instruct him to issue the writ, which the court declined to do then as there was nothing before the court. He told Col. Kenan at the Yarborough that there was nothing before the court to act on, but if he wished to have full protection then he might refuse to issue the mandamus and have notice served on him to show cause why he had not is sued it. Col. Kenan did not wish to do this as it would put him in the attitude of antagonizing the court. At Col. Kenan's request for his private opinion he wrote a note which he then read. This note said he had no right to advise him as an individual or as a judge, no matter being before the court, but he thought that being the object of the suit, he thought White was entitled to the writ.

In the course of his testimony Judge Douglas said that he never saw the writ before it was issued; knew nothing about it being served.

The witness said that he understood that Judge Clark wanted his order to the clerk spread upon the minutes, and the dissenting opinion published in the next volume of Reports succeeding the volume containing the other opinions in the case.

Witness then stated what he conceived and understood the purpose and value of dissenting opinions to be, and said that he had known dissenting opinions (filed, of course, at the same time other opinions are) to be adopted as the deciding opinion of the court, the majority adopting it instead of the contrary one prepared before the dissent was read by other judges, etc.

After a case had been decided and gone off the docket, there is nothing to "dissent" about.

"I knew no reason why I should vote to allow another case to be filed at the time this dissenting opinion of Judge Clark was offered."

The paper which Judge Douglas called the "order" of Judge Clark was that in which he (Clark) ordered Clerk Kenan not to issue the writ of mandamus, and stating that the court had never ordered him to issue it, etc.

The corrections in Judge Clark's opinion were not made in my presence, and I knew nothing about the erasures until the time of the legislative committee meeting. I told Judge Clark that his opinion could go in the Reports only as his 'obituary notice,' and that he (the witness) would not object to that. It was said pleasantly, and caused no ill feeling that I am aware of. I regard the absolute independence of the judiciary as absolutely necessary to the proper performance of the duties. I have never intended to deny any member of the court any right or privilege due him, and I do not think I have ever sought or tried or intended to bring the Legislature of North Carolina into disrepute. On the contrary, I have tried to uphold its rights as a co-ordinate branch of the State government. I was called upon to pass upon the constitutionality of them, have I done so, and even then I have studiously endeavored to eliminate only the unconstitutional portions of such acts, and to leave all in effect that could be left in force."

Green vs. Owen (125 N. C., 221) was cited by the witness to prove the above statement, the opinion in that case being written by him.

"It was my desire to give full faith and credit to the acts of the Legislature and uphold them so far as I could in obeyance of my oath of office.

"I have never been influenced by any political or party considerations in rendering any decision I have ever made since I have been on the bench.

"I had no predelictions in favor of the Hoke vs. Henderson case, and certainly no party or partisan consideration influenced me in agreeing with a unanimous court in the decision of the first cases of this office-holding character. My judgment was influenced and I decided against my political friends solely by the argument and briefs of the counsel for the defendants. Having given my vote in favor of the doctrine laid down in Hoke vs. Henderson, I have seen no reason to change my mind. These briefs I now have."

[Governor Jarvis asked that the witness be allowed to file these briefs as a part of his testimony. Objection by prosecution.]

Mr. Cook, of counsel for the defence, said he thought that competent, because the witness has just stated that the contents of those briefs influenced and controlled his vote on that case, and yet you object to it. Why, one of the points here is that if the letter of the law has been violated then the intent is very important. Now these briefs are competent to show the intent of this witness—defendant's intent—not only in deciding the case of Wood vs. Bellamy, but those following it down to this time.

Mr. Watson insisted on the objection, and stated the reasons for it. "We don't say that Wood vs. Bellamy was even decided wrongly, but if these briefs are admitted, then even oral argument before the court can be injected here."

Mr. Osborne contended that the briefs were competent, and the witness added that he desired to file them because they had influenced his decisions, and therefore as proof of his intent.

[These briefs are those of counsel in the cases of Wood vs. Bellamy, Lusk vs. Sutherlin and Person vs. ——]

The court said that after reading article 5 of the impeachment articles, where it is alleged that, by a "specious course of reasoning," etc., he would hold with the counsel for the defence and overrule the objections of the prosecution.

Continuing, the witness said that he was never influenced by party or partisan considerations; he had become convinced that Hoke vs. Henderson was the law of North Carolina. "As to more recent decisions, if it was the law in 1897 it is still the law."

Governor Jarvis then asked the questions propounded by Senator Henderson to Judge Furches at the morning session, which were promptly answered.

The witness said that there were two questions, one being whether White was entitled to pay, if so in what amount. Both the Auditor and Treasurer submitted those questions to us, and they being parties, it was deemed proper that the mandamus should issue.

As to minor details, they could have been left to the Auditor and settled by the Treasurer.

Q.—"How did the Supreme Court know the Auditor had properly audited the claim?"

Witness said it was not the intention to interfere, because it was supposed and ought to have been properly done.

The motive that influenced me by the question presented, whether the pay should be $900 or $400 per year—and as fund should be paid out funds set aside for that purpose, and not at rate of $900 as per act of 1897. In other words, we took it that he was to draw his pay according to the act of 1899, because the Legislature had the right to reduce the salary, as we conceived it.

Q.—"Ought not the court to have requested the Auditor to report the amount claimed to the court before order of mandamus?"

A.—"It did not so appear to us, but that Treasurer should pay after warrant was issued by the Auditor—that is what I understood to be the order of the court."

Q.—"Do you think it the duty of the clerk to issue order of mandamus in all cases where orders of court are not obeyed?"

A.—"It would be the duty of the clerk to obey the order of the court, and to use such methods as were necessary to carry out such orders."

Q.—"Does the record of the Supreme Court show that the judgment of the court has been satisfied?"

A.—"I do not know."

Q.—"Whose business is it?"

A.—"The clerk of the court's."

The direct examination of the witness by Gov. Jarvis ceased here.

Judge Douglas was given a lengthy cross-examination, during which time there was some sparring between the witness and counsel.

The following witnesses, all from Greensboro (the home of Judge Douglas) were sworn and testified to his good character and standing:

President Dred Peacock of the Greensboro Female College.

Capt. J. W. Fry, a banker.

Mr. J. J. Hunter, a manufacturer.

Mr. J. A. Odell, a hardware merchant.

Neither of the witnesses was cross-examined, and they retired after merely answering the formal question put to them by Mr. Bynum.

JUDGE MONTGOMERY ON THE WITNESS STAND.

After Senator Henderson had introduced a resolution, which was adopted, providing for the payment of per diem and mileage of the character witnesses examined the preceding day, Justice Montgomery of the Supreme Court was called to the witness stand and sworn.

In response to questions by Mr. Cook, of counsel for the respondents, who conducted the examination, the witness said:

"I was licensed to practice law in January, 1867, and since that time, up to November, 1894, when elected Associate Justice of the Supreme Court, I was engaged regularly in the practice of the law.

I took the oath of office as justice of that court in January, 1895, and the first of the office-holding cases tried after I went on the bench was that of Wood vs. Bellamy (120 N. C. Reports).

Q.—"What was the principle involved in that case?"

A—"That a public office was

(Continued on Second Page.)

WORK OF A DAY.

HORRIBLE ACCOUNTS OF MURDER, DEATH AND LAWLESSNESS.

DEADLY WORK DONE BY AXE, CLUB AND RAZOR.

Six Children Murdered by a Maniac Mother—Man Shot and Killed by Desperados in Polk County—Three Children Brained with Axe.

Coal Brook, Mass., March 23.—Mrs. Lizzie Naramore, while in a fit of insanity this afternoon killed her six children at her home, a farm house half a mile from this village, and then tried to take her own life. The children ranged from ten years to a baby of ten months, and their lives were taken by the mother with an axe, and a club. She laid the blood-drenched bodies on the beds, two on one bed and the other four on a bed in another room and then attempted to take her own life by cutting her throat with a razor. When discovered she was in the bed on which the bodies of the four children were lying. Although she cut a deep gash in her throat and suffered the loss of much blood, it is believed she will recover.

Frank Naramore, the husband and father, left his home at the usual hour this morning to go to his work at a saw mill, and at that time his wife did not attract his attention by anything peculiar in her looks or actions.

Rutherfordton, N. C., March 23—Tom Jones, 40 years old, one of the most desperate white criminals and moonshiners in Polk county, was beaten to death with a double-barrel shot gun yesterday, near Mills Springs by two twin brothers, Ed and Oscar Wilkerson.

The three men were hidden on the road waiting for three negroes to return from a still. They had plotted for a shooting match at them. While waiting, a quarrel began as to which one should have the first shot. It ended with the two brothers springing upon Jones and beating his head into a jelly with their guns. His brains were found lying on the ground near the body.

One of the murderers escaped; the other is in jail, but refused to talk. Jones has been seriously shot in three shooting affairs. He has just returned from the penitentiary at Albany, New York, where he served one and a half years for moonshining. Both the Wilkerson boys have served a term in the State penitentiary for murder.

Clinton, Maine, March 23.—Jacob D. Marr, a farmer living eight miles from this village, killed his three children, Alice, aged 13; Elwin, 9, and Helen, 7, with an axe shortly after the family had risen from the dinner table today.

Mr. Marr had been despondent for some time, but his actions were not such as to make his wife believe that he had any serious trouble to worry over. The oldest daughter was washing dishes at the sink when her father went by her to the shed and got an axe. He came back into the kitchen and struck the girl a single blow on the head, killing her. Mrs. Marr saw this and ran screaming to the house of her husband's father, Samuel Marr. The husband apparently went up stairs to where the younger children were playing and struck each of them with an axe handle killing them both.

When Mr. Marr, Sr., came in the younger Marr was washing his hands at the sink. He was asked why he had done the deed and he said:

"I don't know."

Later he was placed under arrest.

A Negro Lynched in Halifax County.

Richmond, March 23.—A rumor which reached here last night of a lynching in Halifax county, has been confirmed. A negro sent on to court by a magistrate on the charge of burning the stables of a Mr. DeLarnette, was taken by some 50 unknown men from a constable who was taking him to the county seat and shot to death. None of the mob could be identified.

Ore Worth $90 a Ton.

Charlotte Observer.

Mr. J. M. Kendrick has discovered a gold mine on his place near the city. Some of the ore taken from the mine will assay as high as $90 a ton. The vein is a large one and is located in a section of the county that is noted as a gold-producer. Mr. Kendrick exhibited a panning yesterday that was almost pure gold sand. He expects to develop the mine.

In order to prevent the establishment of a dispensary, the Goldsboro saloons agree to open their places of business at 5 a. m. and close at 9:30 p. m.

The commissioners of Union county have purchased a pair of bloodhounds to be used in capturing criminals.

The postoffices at Red Springs, Robeson county, and Benson, Johnston county, will become international money order offices April 1st.

LITTLE FEMININE FIXINGS.

The Pretty Odds and Ends That Give Distinction to a Costume.

Among the pretty odds and ends to be worn with white shirt-waists are ties of half-inch black velvet ribbon finished at each end with a gilt pendant. The ribbon is cut a yard and a half long, and passes around the neck once, and ties in front with two even loops and ends.

Narrow four-in-hand scarfs have the ends slightly gathered and finished with wide flat pendants.

Ribbon collars have the ends gathered and thrust into the open top of a gilt spike.

The newest thing in the way of a belt-fastener is a buckle in the form of a brooch which pins the ribbon or velvet belt in place in the front.

The rage for dangling ornaments seems to be upon us, and belts of velvet, silk and ribbon are finished with rosettes of narrow velvet ribbon with from two to eight ends from fifteen to twenty-five inches long finished off with gilt pendants.

Black velvet ribbon continues to be popular, and where a quantity of it is used even the most fashionable dressmakers use the cotton-backed.

The new and pretty trimming used so much on evening gowns and silk bodices cannot be purchased ready-made, but fortunately it is not difficult to make. It is used to finish collars, revers, yokes, etc., and is really a tucked ruche of mousseline.—April Ladies' Home Journal.

Southern Expansion.

A Chattanooga, Tenn., special says: The Chattanooga Medicine Co., manufacturers of McElree's Wine of Cardui and Thedford's Black-Draught, have just completed the erection of three new buildings as additions to their large plant here. These building give the company over two acres of floor space and make the plant the second largest in the world devoted to the proprietary medicine business.

This great business is rapidly extending to foreign fields, a shipment of 7500 bottles of Wine of Cardui being recently made to British South Africa.

Penalty for Putting Off.

Harrisburg, Pa., March 27—Representative Roth of Lehigh county has introduced a bill in the House to encourage early marriages. The bill provides that a male citizen of Pennsylvania over forty years of age making application for a marriage license shall pay to the clerk of courts a license fee of $100, which is to be turned into the State treasury for the purpose of maintaining homes for old ladies over forty years of age who have not had a suitable opportunity or offer of marriage. Any bachelor over forty years who shall go outside of the State for a wife shall pay $100 into the State treasury.

Brother of Gen. Botha Killed.

London, March 23.—A dispatch from Lord Kitchener, dated at Pretoria, March 22nd, says:

"Philip Botha, a brother of the Boer commandant general was killed on the Doornberg. His two sons were wounded.

"The Boers of the Orange River Colony have disbanded and scattered. De Wet is in the neighborhood of Heilbron."

Fire at Hickory.

Hickory, March 23.—At 11 o'clock Thursday Abernethy & Whitener's new and well-equipped livery stable was burned. The loss is between $3,000 and $4,000, with no insurance. Ten fine horses perished in the flames, with all the other livery property. This firm lost a stable about 12 months ago, valued at $3,000.

Important Trifles.

O. S. Marden, in April Success.

Nothing is small which helps you along the line of your career, which broadens your horizon, which deepens your experience, which makes you more efficient in the great work of life. No matter how trivial any duty may seem, if it adds in the slightest way to your efficiency, it ceases to be trivial.

To Regulate Matrimony.

St. Paul, Minn., March 23.—The State Senate has passed the bill prohibiting the marriage of insane, epileptic and idiotic persons, and requiring a medical certificate of all applicants for marriage licenses.

Postoffices Advanced.

Washington, March 27.—The fourth class postoffices at Maxton, N. C., and Clinton, N. C., have been advanced to the presidential grade as third-class offices.

After all we must come back to the old truism: that men and women are like water; they always find their true level. And where you live happiest, that is your level. There's polluted water, and there's clear water. But one law is inexorable: the closer you get to Nature, the truest and simplest thing there is because it is closest to God, the clearer always will you find the water.—April Ladies' Home Journal.

"How the Beet-Sugar Industry is Growing" is the subject of an informational article by Ray Stannard Baker in the March Review of Revsews. The latest facts and figures of this important interest are presented by Mr. Baker.

MARYLAND SUFFRAGE.

COMMENT ON THE NEW ELECTION REFORM LAW.

CONSTITUTIONALITY IS DISCUSSED.

Political Effect of the Democratic Move Foreshadowed—Inconsistencies Noted—Demagogues Want to Rule—Afraid of the People.

Washington, D. C., Star.

The politicians of Maryland of both parties are now engrossed in the absorbing subject of the proposed election law, for the passage of which Governor Smith has summoned the legislature in extra session. The legal and political aspects of the situation are being feverishly discussed, in and out of print, and the State is stirred as never before since the days of civil war. The opponents of the election bill are more in evidence than its advocates, who appear to be playing a waiting game, relying upon party dominance in the legislature to accomplish their ends.

John V. L. Findlay of Baltimore, in a letter published in the Baltimore News, appeals to the manhood of the State to prevent the consummation of what he terms a crime against free government. He notes that Maryland has in the past limited the franchise by imposing restrictions upon Jews, but that these were removed about 1826. The Catholics had previously been deprived of the suffrage by the Puritans and later the war conditions imposed restrictions upon thousands of the citizens. One party and another were swept from power because of its advocacy or practice for partisan advantage of methods of hampering the free exercise of the right to vote. Mr. Findlay adds:

"Under the old system, when the Jews and the Catholics, and later on Southern sympathizers, were disfranchised, there could be no real expression of the popular will, because a large portion of the people were not permitted to express it in the only way it could be done—through the ballot box. But, by the more refined and subtle plan which took its place, this expression of the popular will was simply nullified and defeated by the men in charge of the electoral machinery. The law was used to defeat its own object, and the kid was seethed in its mother's milk. Now it is a strange spectacle that we behold, showing that men do not so much walk on a plane as revolve in a circle, when Jews, Catholics and old Southern sympathizers, along with some of their persecutors, learning nothing from the past, nothing from the bitterness of their own experience, and taking no counsel of justice and charity for their fellow-men, are all alike at the instance of a discredited demagogue engaged in an effort to repeat the old experiment of disfranchisement, and, perhaps, in a more questionable and disgraceful form than has ever yet been attempted. Nothing can be more certain than that the present legislature was not elected on any issue which would justify it in enacting the legislation now proposed.

WOULD NOT HAVE BEEN APPROVED.

"Nothing is clearer than that thousands of men who helped by their votes to elect the present members of the House and Senate would have voted the other way had they understood at the time they voted that they were actually voting to take from themselves the right to vote. This being so, the proposed legislation is simply a tricky and fraudulent usurpation of power under the forms of law, and if it had no other badge to indicate the source no one familiar with the ways of ring democracy prior to 1895 would be at a loss to place his fingers upon the responsible author. I appeal to the manhood of the State. If the ballot in the hands of the ignorant and irresponsible has become a menace to the safety and well-being of the commonwealth, what is the plain, just and reasonable course worthy of Maryland freemen who have some regard for the rights of their fellow-men to pursue? If a large class of our citizens who are unfortunate enough to be unable to read are to be deprived of about the only possession which they share in common with their fellow-men and are to be degraded by being placed in the same class as penitentiary convicts, ought they not at least to be heard before this terrible sentence is imposed?"

CONSTITUTIONALITY QUESTIONED.

The constitution of the state has been brought into question in this connection. The senate legislative committee, upholding the right of the legislature to enact the new election law, declares:

"Section 1, article 1, of the constitution declares that 'all elections shall be by ballot.' There is no definition of the kind, the size, the shape or the character of the ballot. The framers of the constitution did not undertake to say how the ballot should be prepared, by whom it should be made up, or in what manner it should be voted. The simple requirement that all elections shall be by ballot left the legislature free and uncontrolled to prescribe every detail, which, in its judgment, might be wise or desirable to the structure and the contents of the ballot and the mode of voting it. If this were not so the present Australian ballot law could not be upheld. It is purely because the constitution has not prohibited its adoption that its adoption was constitutional. If the legislature was thus deliberately and purposely left free to prescribe what it deemed best as to the kind of ballot, then it was left free to declare that the ballot should be printed without emblems or other signs and in the way it is proposed to print it, and if as a consequence of its being printed in the way it is supposed to print it some persons may not vote intelligently, then the fault (if fault there is) is with and in the constitution in this, that it has left to the legislature, without restriction, the power to produce and bring about that precise result by lawfully adopting such a ballot. Unless it can be said the declaration that 'all elections shall be by ballot' is tantamount to providing that the legislature has no power to prescribe the form of the ballot, it cannot be denied that in prescribing the form it has the right to adopt this form now proposed, notwithstanding the adoption of it may impede some persons in voting who antecedent it did vote.

The Baltimore News, opposing the proposed law, answers thus on the constitutional point:

"The unsoundness of this argument is manifest. Nobody has ever pretended that the legislature had no right to make regulations as to the ballot; but it is difficult to see how any person in his senses can soberly maintain the proposition that because the legislature may constitutionally make one regulation, it follows that it may constitutionally make any other regulation. A very simple case will show this. Suppose the legislature were to enact that all ballots must be written in the voter's handwriting, in the polling booth, without assistance and without the aid of any paper in the voter's possession, and that any ballot containing an error in spelling shall be invalid; according to the doctrine of the committee this act would be absolutely within the powers of the legislature, though it would have the effect of practically depriving of the suffrage nine tenths of the male citizens of Maryland upon whom that right is conferred by the legislature. It will be noted that the committee nowhere quotes that declaration of the Constitution upon which alone the argument against its proposed action is founded—that 'every male citizen of the United States of the age of twenty-one years or upward who has been a resident of the State for one year and of the legislative district of Baltimore city or of the county in which he may offer to vote for six months next preceding the election shall be entitled to vote in the ward or election district in which he resides at all elections hereafter to be held in this State.'"

A QUIBBLE OF TERMS

The senate committee further advances the following argument on the legal phase:

"The fallacy running all through the arguments against the measure lies in confusing and confounding the right to vote with the exercise of the right, and also in ascribing to the proposed law a character which its attributes do not give it, but which it is alleged its results impress upon it. The right to vote exists under the present law, but if the ticket is not properly marked the vote is lost, because the right has not been lawfully exercised. Unless the legislature has the authority to do what is now proposed to be done, where did it get the power to order that a ticket wrongly marked should be rejected? If the right to vote and the exercise of the right are coextensive, how could the legislature reject a ballot once cast?"

The News, in reply, says:

"This is a quibble so shallow and contemptible that one has a sense of humiliation in condescending to answer it. The two things placed here in the same category are as different from each other as honesty is from rascality, as different as the dealings of an upright business man from the methods of a bunco steerer. Under any law whatever, owing to the imperfection of all human machinery, some things must go wrong; and an election law is no exception to the rule. Because some few cases of loss of vote through accident occur under the existing law, say these sharp practitioners, it must be quite legitimate to make a law expressly designed to cause many thousands of voters to lose their votes. Because, from the nature of things, some individuals will, in every election, through circumstances peculiar to themselves, fail in the exercise of their right to vote, therefore it is perfectly proper for the legislature deliberately to make that exercise impossible, or nearly so, in as many cases as it pleases.

"The case of the disfranchisers would have been infinitely better without any plea at all. It is preposterous to suppose that such juggling of phrases can help at all in covering up the true character of the proceeding contemplated. On the contrary, the bald assertion that the legislature may interfere with the exercise of the right of suffrage as much as it pleases, provided only it does not nominally deny the right, should serve to awaken the people to the true nature of the impending legislation. The doctrine set up in defense of the act is far worse than

(Continued on Second Page.)