

## ACTION DEFERRED UNTIL THIS EVENING

### Sub-Judiciary Committee's Report as to Impeachment—Practically Justifies Such Action

The Judiciary Committee of the House received last night the report of the sub-committee of five, which has been considering the Craig resolution for the impeachment of Chief Justice Furches and Associate Justice Douglas of the Supreme Court.

The report, which is without recommendation, was discussed until midnight by the Judiciary Committee. Adjournment was then taken until this afternoon at 3 o'clock, when the views of the sub-committee will again be considered.

No test vote was reached by the committee last night so as to indicate an ultimate decision by the members. The majority of the speakers favored the impeachment. Among these were Messrs. Craig of Buncombe, Graham of Granville, and Spahn of Burke. Mr. Connor of Wayne, favored the administration of a rebuke to the judges rather than impeachment. Mr. Stubbs of Martin, was inclined to the same opinion.

No full expression of opinion was obtained at the meeting of the committee last evening.

The full Judiciary Committee was given the report last night at 8:30, and immediately went into executive session, from which the public was excluded.

The sub-committee held two sessions yesterday. During the afternoon J. C. L. Harris, who was attorney for Laophilus White, was examined as a witness. Mr. Harris was the fourth witness examined.

At 8 o'clock last night, when the full Judiciary Committee met, the sub-committee considered the impeachment resolution was out holding a meeting. At 8:30 the sub-committee appeared in the Supreme Court library. A call of the roll showed that thirty members of the committee were present.

Judge Allen, the chairman, announced that the sub-committee had completed its report.

Mr. Shannonhouse of Mecklenburg, moved that the committee consider the report of the sub-committee in executive session. He said "A great deal of prominence has been given the impeachment proceedings by the press in the State. Some newspapers are prejudging the case before the committee reaches a decision. The members of the Legislature are responsible to the people of North Carolina for the action taken, and I am opposed to being advised in this matter by people who know nothing of the merits of the case. It will be time enough for the press to be acquainted with the proceedings when the matter comes up in the House. I think we should consider the committee's report in executive session."

Mr. Robinson of Anson seconded the motion made by Mr. Shannonhouse, and the committee decided to meet in executive session. It was agreed to adjourn to the State Library.

Ex-Judge Allen of Wayne the chairman of the sub-committee brought attention to the fact that certain newspapers of the city had stated that the committee reached its decision Saturday.

"All such statements were unauthorized," Judge Allen declared. "We did not reach a conclusion until today. A number of reporters have asked for information and I have always replied that the committee was conducting the examination with the view of ascertaining the

facts and the law. We stated that no report would be authorized until it went to the committee on judiciary. We have felt that our work was in the hands of the Judiciary Committee."

The committee then moved up to the State library and the newspaper men moved out in the cold.

The report, while making no recommendations, leads to the conclusion that both judges against whom charges are made are guilty of offenses, which warrant impeachment.

The report recites the facts in the case developed and gives conclusion of law.

The committee declares in its report that the action of the court was in violation of the constitution; that the Legislature of 1890 had the power to forbid the payment of the claim of Theophilus White and that the order of the court was in direct violation and in utter disregard of this act; that the appointment of D. M. Furches as Chief Justice since the acts complained of does not prevent his impeachment.

The most significant sentence in the report is as follows:

"The manner in which this order was issued indicates to our minds that the judges who directed it to issue did not think that they had the power to issue the same, and that they were undertaking to shift the responsibility from themselves to the clerk of the Supreme Court."

The report of the sub-committee in full is given herewith:

**The Committee's Report**

To the Committee on Judiciary of the House of Representatives:

Your sub-committee, to which was referred House resolution 710, respectfully reports:

That the Legislature of 1897 passed an act to provide for and promote the oyster industry of North Carolina known as chapter 13 of the laws of 1897. That section 12 of said act provided that the Governor shall appoint a chief inspector, who shall hold office during the term of four years and until his successor is appointed and qualified, and that section 15 of said act provided for the compensation to be paid such chief inspector.

That under this act Theophilus White was appointed by the Governor chief inspector of the oyster industry. That in 1899, the Legislature passed an act to amend chapter 13 of the laws of 1897, known as chapter 18 of the laws of 1899, which was ratified on the 28th day of February 1899, and that by said act sections 12 and 13 of the laws of 1897 were repealed.

That the Legislature of 1899 passed two other acts relating to the shell fish industry, one of which was known as chapter 19 of the laws of 1899, which was ratified on the 2nd day of March 1899, and the other as chapter 21 of the laws of 1899, which was ratified on the 8th day of March, 1899.

That by chapter 19 of the laws of 1899 it was provided that there shall be seven commissioners hereinafter named, to carry out the provisions of this act relating to the shell fish industry in North Carolina, and George H. Hill, B. D. Scarborough, Daniel L. Roberts, Robert W. Wallace, C. A. Len, J. M. Clayton and Daniel C. Hooker were named as the commissioners in said act.

That by section 9 of said act of said chapter 19, it was provided that the treasurer shall pay the expenses of carrying out this act, including the compensation allowed said board to its

servants or employees from the oyster fund upon the warrant of the Auditor, which warrant shall be issued by the Auditor upon the certificate of the Secretary of the said board, and countersigned by the chairman of the board of shell fish commissioners.

That by chapter 21 of the laws of 1899, it was provided that the Treasurer of the State of North Carolina shall not pay any compensation to any person or persons claiming the same for services rendered concerning the shell fish industry, unless such person or persons are authorized to render such services under the provisions of the said act entitled "To provide for the general supervision of the shell fish industry of North Carolina, and ratified March 2, 1899," which act is said chapter 19 of the laws of 1899.

That soon after the passage of said last named acts, the persons named in said chapter 19 as commissioners, George H. Hill and others, duly qualified and entered upon the discharge of their duties.

That prior to the May term of 1899 of the Superior Court of Pamlico county, the said Theophilus White instituted an action against the said Geo. H. Hill and others, alleging substantially that they were exercising the duties of an office to which he was entitled under the said act of 1897. That said action was tried, and upon appealing to the Supreme Court it was adjudged that the said White was entitled to said office under the act of 1897. That thereafter the said Theophilus White demanded of Hat W. Ayer, Auditor, that he issue a warrant upon the State Treasurer for the payment to him of compensation as chief inspector of the shell fish industry, and demanded of the Treasurer that he pay the same, which demands were refused. And thereafter, about December, 1899, the said White instituted a proceeding against the said Auditor and the said Treasurer to compel payment.

That said action was heard upon appeal in the Supreme Court at February term, 1900, and is reported in the 126 N. C., at page 570.

That it did not appear in said proceeding that any certificate had been made by the Secretary of the shell fish board for compensation to the said White or that any such certificate had been countersigned by the chairman of said board. That payment of said claim was resisted upon this ground, and upon the further ground that chapter 21 of the laws of 1899 expressly forbade the payment to the said White.

That the Supreme Court rendered an opinion holding that the plaintiff White was entitled to enforce payment of his claim for compensation. This opinion was filed on the 22d of May, 1900. That the court did not then issue a mandamus to compel payment. That the Legislature of 1899 met in adjourned session at Raleigh on the 12th day of June, 1900. That at said session a committee was appointed by the House of Representatives to wait upon the Treasurer of the State and to inquire of him if the claim of Theophilus White had been paid, and this committee reported back to the House a letter from the State Treasurer stating that it had not been paid.

That soon after the Supreme Court met in September, 1900, application was made in open court for a mandamus against the State Auditor and State

## IT BARS NEGROES

Makes Them Ineligible to Practice Law

## WHAT THE HOUSE DID

An Editorial as to the Browbeating of Republicans Very Much Discussed—Train Dispatchers Exempt

The House had a rather interesting session yesterday.

A discussion as to an editorial in a newspaper was about the only interesting subject that was considered during the day. The declaration by the Charlotte Observer that there had been more or less browbeating of the handful of Republicans in the Legislature gave offense to some gentlemen. The charge was denied, and a resolution censuring the Observer was offered by Mr. Morgan of Johnston, but was referred to the Judiciary Committee after some discussion.

The special order in the House today at 11 o'clock is the divorce bill. An interesting debate may be expected.

The bill introduced by Mr. Stewart of Harnett, which amends section 17 of chapter 4, first volume of the Code, says "that no negro or person of negro descent, to the third generation inclusive, shall be eligible to apply to the Supreme Court of North Carolina for a license to practice law in this State, and that the Supreme Court of North Carolina shall not examine any applicant who is a negro or person descendant from a negro to the third generation inclusive."

Section 3 provides that two or more judges of the Supreme Court shall be and are hereby empowered to examine applicants for a license to practice law in North Carolina, and, on receiving certificates from said justices of their competent law knowledge and upright character, said applicants shall be admitted as attorneys in the courts specified in such certificates.

Mr. Willard of New Hanover introduced a bill yesterday providing for enlargement of the capitol. The bill appropriates \$500, with which the Board of Public Buildings is directed, before the meeting of the General Assembly in 1902, to secure from competent persons full plans, specifications and estimates for the erection and completion as a part of the capitol of such necessary rooms for the use of committees and officers of the Legislature and officers of the State as in their judgment are required for the proper conduct and dispatch of the State's business.

The information is to be transmitted to the General Assembly, with such recommendations as the Board of Public Buildings shall see fit to make.

Mr. Bradsher of Person is the author of a measure regarding railway passenger rates in the State. Mr. Bradshaw's bill is as follows:

The General Assembly of North Carolina do enact:

Section 1. Every railway or railroad corporation doing business under the laws of North Carolina shall charge the following rates of fare or compensation to be paid for transporting any passenger, to-wit: one cent per mile for each mile and fifty pounds in weight for each mile or fraction of a mile, to-wit: For any greater distance traveled than twenty miles, 3 cents per mile, with right to a minimum single fare of 10 cents. Provided, nothing in this act shall apply to railway or railroad companies operating less than twenty-five miles of roadbed in this State.

Sec. 2. Any railroad or railway corporation which shall ask or receive more than the foregoing rates of fare, unless such overcharge is necessary to gross negligence, shall forfeit twenty-five dollars, to be recovered, with the excess so received, by the party paying the same and shall be guilty of a misdemeanor and fined at the discretion of the court; but said action must be commenced within one year after the cause of action accrued.

of this House, will not give any color to this statement.

"The uniform courtesy with which this overwhelming Democratic majority has treated the small Republican and Populist minorities has been the subject of much favorable comment.

"On no single question has there been unanimous division on party lines.

"I ask the gentlemen of the opposition to say here and now whether they have been the subject of browbeating on the part of Democratic members of this House.

"Our discussions have been singularly free from partisan or party bias.

"I repeat that I am not taking issue with the sentiments of the editorial. With that I have no concern. But I do emphatically denounce this imputation upon the good manners and character of the Democrats of the House, and I desire to say that so much of that editorial as I have read is absolutely false.

"I am sure, Mr. Speaker, that the members of the other branch of this General Assembly have been as courteous and parliamentary as we have in dealing with public questions and with their fellow-members of a different political faith."

The following resolution introduced by Mr. Morgan of Johnston, brought the subject up for discussion before the House. The resolution, after much discussion, was referred to the Committee on Judiciary.

Resolved, That the speech of F. D. Winston on question of personal privilege as pronounced in this House today expresses the sense and feeling of this House; that the said editorial referred to as appearing in the Charlotte Observer is hereby denounced as a mistaken expression of public opinion or unqualifiedly false as the case may be."

Mr. Robinson of Anson, introduced the following amendment:

"There has been in this Legislature more or less browbeating of the handful of Republicans in it by the majority after the words 'editorial referred to.'"

Mr. Duls of Mecklenburg, said, in discussing the resolution:

"While I am in sympathy with any action the Democratic members of the House may take I feel constrained on behalf of my constituents to ask that this bill be referred to the proper committee, where the truth can be ascertained and no injustice done. I know the editor of the Charlotte Observer and the staff of the paper. They are gentlemen of the highest honor and integrity. They might be mistaken, but to be willful in misrepresentation I say never, I say that this House should go slow in this matter. I do not believe it will be wise to take any action.

Mr. Morgan said he did not wish to do the constituents of the Representative from Mecklenburg an injustice. He declared that the editorial question was written with deliberation. "The editors of that paper," Mr. Morgan said, "have not stood by the Democratic party and they have pursued a course which was not endorsed by the white people of North Carolina. I call on any Populist or Republican in this House who endorses what the Charlotte Observer said to stand up. The Charlotte Observer represents a handful of people in Mecklenburg and is trying to misrepresent the white people of North Carolina. The editor of the Charlotte Observer has a right to his opinion, but his paper should not misrepresent the members of this Legislature."

Mr. Willard of New Hanover, said that the request of Mr. Duls should be granted.

Mr. Rountree of New Hanover, said he read the paper in question and he declared that he entertained the greatest respect for the editor of the paper. He said after reading the editorial he came to the conclusion that the editor of the Observer was mistaken. He said "there was nothing very serious in what has been said, 'there is nothing for this House to get excited over in this matter.'" Mr. Rountree said: "Let it go to the committee, where it can be considered with deliberation. We should proceed about this matter calmly and deliberately."

Mr. Watts of Iredell, said the language of the editor of the Charlotte Observer was uncalled for and entirely in keeping with the course of that paper. He urged the passage of the resolution.

Mr. Robinson of Anson, said that this Legislature had no right to denounce the editor of the Observer for an opinion he might have. He said the paper might be denounced for making a misstatement of fact relating to the browbeating of Republicans by Democratic members of the House. He offered an amendment inserting this change in the resolution.

Mr. Duls said he was not here to defend the Democracy of the Charlotte Observer; that the constitutional amendment had no abler defender than Mr. Caldwell and the Observer; that Mr. Caldwell, the editor, wrote as he honestly thought and that he was aware of the fact that the paper was more or less a freelance. He characterized the discussion of members of the House as undignified and hasty.

Mr. Morgan of Johnston, said the defense of the Democratic party was undignified, though it might be hasty.

"This man has gone too long in the expression of his views and this House should not escape this opportunity of letting him know what it thinks of him. He is an enemy to the true Bryan Democracy."

Mr. Patterson of Robeson, said the House could never afford better than at this time when it knew it was right, to give the Charlotte Observer an opportunity to correct its statement. He urged the House to give the Charlotte paper an opportunity to correct its statement.

Mr. Shannonhouse of Mecklenburg, spoke of the high character and honesty of Mr. Caldwell and he said there was animus behind the resolution. He thought that this move was prompted by people who differed with him because of his political views. He said that there was courtesy among gentlemen and that the House should not make itself any smaller than the Observer from the standpoint of members of the House.

Mr. Beddingfield of Wake, said that the request of the Mecklenburg delegation should be heeded by the House. He

## WALK THE PLANK

Senate Force of Employes to Be Cut Down

## BLIND ASYLUM ENQUIRY

Committee Recommends Investigation—Surry Treasurership Bill Passed—Another Purer Air Effort

The printing knife is to be applied to the force of Senate employes. Yesterday afternoon Senator Brown's investigating committee so decided.

Two pages and three "laborers" will be made to walk the plank—this morning is adopted. Which side of the force will get the "bounce" remains for President Turner and Sergeant-Arvis Smith to determine.

The committee held a meeting during the 20 minutes' recess of the Senate, shortly after noon, and determined upon the course, and as a result a number of employes are on the anxious seat at this writing.

The Senate committee on Institutions for the Deaf and Dumb and the Blind also held a meeting yesterday, during the recess, and agreed to report the resolution providing for an investigation of the management of the Institution for the Blind favorably, and this was done when the Senate re-convened shortly thereafter.

Mr. B. B. the principal of the institution was present at the meeting, and when Senator Lindsay, the author of the resolution, stated that he thought the management ought to welcome the investigation, if there was no good ground for the charges or reports of extravagance, he stated that it would.

All the committee members agreed that, as the matter had proceeded this far, the inquiry should be held in justice to the institution, as much as for any other reason, and it was so decided.

The Surry county treasurership question which has caused so much discussion involving a matter of party policy has been settled, so far as the State is concerned.

The bill, as amended by Mr. Webb on Sunday—providing for the creation of the office again, but that it should not be filled until and except through the next general election of county officers, in 1902—was passed, and sent to the House for concurrence. This course seemed to be satisfactory to the Republicans as well as to the majority of Democrats.

The report of Insurance Commissioner Stone, approved and transmitted to the Senate yesterday by Governor Aycock, contains several important recommendations.

Among them is that recommending a change in the present insurance laws regarding the trial of cases in State courts, and to empower the insurance commissioner to revoke the license of any company which removes or seeks to remove, any suit it may be a party to from the State to United States courts. This is the law in a number of the leading States, and the effect of its adoption here will be to insure an additional revenue of \$12,000 to \$15,000 to the State treasury, by reason of the return to business in North Carolina a dozen of the largest and strongest companies in the United States, which withdrew because the requirements of the law passed two years ago seemed only to accomplish the above result only to accomplish the above result only to accomplish the above result.

It is understood that neither of those companies ever had a case in court in North Carolina, and never expected to have, but that legal technicalities compelled them to discontinue business here until the law was changed, so as to accomplish the same result by a different legal process. In the meantime the State has not only lost all income from the tax on new business of those companies, but that on renewals as well, amounting to thousands of dollars.

Besides that, quite a number of some of the best citizens of the State have been seriously injured financially by being thrown out of business or employment. The Post is informed, therefore, several hundred agents, examiners and others are interested in the return to business here of these large companies, as well as the State itself and its treasury. The change will doubtless be made as recommended.

One of the bills passed yesterday transfers the duty of examining State banks from the Corporation Commission to the State Treasurer. This was formerly the law, but it was changed a few years ago.

It will not be Senator Speight's fault if the Senate is a physician. If the State contracts the grip and suffer from influenza and other ailments, as the result of breathing foul air every day.

Yesterday he made another attempt to improve the State by introducing a Senate resolution to have the work necessary to accomplish that result done

## PROCEEDINGS IN DETAIL

Senate called to order at 11 o'clock by Lieutenant Governor Woodard.

Session opened with prayer by Rev. A. A. Marshall of the First Baptist Church.

Reading of Journal dispensed with.

Reports from various standing committees sent forward and bills placed on Tuesday's calendar.

Leave of absence granted to Messrs. Pinnix, Miller of Caldwell, London, Morrison, Leake, Bray, Foushee.

The chair held before the Senate two communications, one from President McIver of the State Normal College, in regard to the number of employes of that institution, and the other from ex-State Auditor Ayer, giving certain information with regard to the contingent expenses of that department, etc. Referred to the Committee on Education and Finance, respectively.

Petitions were presented by Senator Marshall from citizens of several counties asking a modification of the present election law, also from certain ex-felicate soldiers of Surry county asking pensions, etc.

## New Bills Introduced

The following new bills were introduced and passed their first reading:

By Mr. Morton: S. B. 506—Authorizing commissioners of New Hanover county to dispose of old county courthouse and lot, etc.

By Mr. Scott: S. R. 507—Joint resolution relative to the Department of Agriculture. Committee on Agriculture.

By Mr. B. B. House of Representatives for the next two years, and estimate of expenses for next two years, etc.

By Mr. Morton: S. B. 508—To amend the charter of the town of Southampton, in Currituck county. Committee on Counties, Cities and Towns.

By Mr. Morton: S. B. 509—To amend the charter of the town of Washington, in Currituck county. Committee on Counties, Cities and Towns.

By Mr. Ward: S. B. 510—To grant further time to Southern Railway Construction Company to begin work of construction. Committee on Railroads.

By Mr. Ward: S. B. 511—To incorporate the town of Washington, in Currituck county. Committee on Counties, Cities and Towns.

By Mr. B. B. House of Representatives for the next two years, and estimate of expenses for next two years, etc.

By Mr. Speight: S. R. 512—To provide for the certification of the Senate chamber. Suggested that it be referred to Committee on Public Health. Mr. Aycock: "Haven't got any more of that." The resolution was placed on the calendar.

By Mr. Scott: S. B. 514—To amend section 1858 of the Code. Judiciary Committee.

By Mr. Marshall: S. B. 515—For the relief of the heirs of Surry county. Pensions Committee.

By Mr. Ward: S. B. 516—To prohibit sale of liquor within one mile of Phillips Church, in Washington county. Propriety and Grievances Committee.

By Mr. Miller of Pamlico: S. B. 517—To amend chapter 17, Acts 1899. Judiciary Committee.

By Mr. Arrington: S. B. 518—For the relief of William Gray of Edgecombe county. Propositions and Grievances Committee.

By Mr. Lindsay: S. B. 519—For relief of D. M. Mallory of Rockingham county. Pensions Committee.

## Surry Treasurership Bill Passed

S. B. 207—To re-establish the office of county treasurer in Surry county, was taken up and passed. [This bill passed as amended, providing that the office be filled until regular election in 1902.]

Telegrams were read from chairman of Democratic county committee of Surry and the mayor of Mr. Airy, stating that the above course would be satisfactory.

## Bills Passed Final Reading

The following bills passed third and final reading (unless otherwise stated below):

S. B. 273, H. B. 355—In regard to fences in certain stock-law territory of Mecon county.

S. B. 36, H. B. 611—To repeal chapter 103, Private Laws 1897, as amended by House.

S. B. 206, H. B. 68—To appoint additional justices of the peace in Catawba county.

S. B. 200, H. B. 106—To appoint B. S. Williams a justice of the peace in Oak Ridge township, Guilford county.

S. B. 311—To provide for sale of property by executors and administrators in certain cases. (Recommended to Judiciary Committee.)

S. B. 315, H. B. 261—To appoint J. J. Hendren, Frank Reynolds et al. justices of the peace in Rutherford county.

S. B. 316, H. B. 535—To appoint J. L. Fulford a justice of the peace.

S. B. 350, H. B. 252—To appoint W. S. Uzzle a justice of the peace in Lenoir county.

S. B. 372, H. B. 49—To regulate claim and delivery proceedings, etc. (Unfavorably reported. Tabled.)

S. B. 393—To amend chapter 70, Acts 1885, in regard to charter of Fidelity Bank of Durham.

S. B. 414, H. B. 605—To prohibit dredging in Carteret county.

(Continued on second page.)

## "ASSAULT UPON JUDICIAL CONDUCT"

### Republican Delegation in Congress Indignant at Impeachment Proceedings Against Judges Furches and Douglas

Washington, D. C., Feb. 4—Special.—This telegram was sent this morning:

Chief Justice David M. Furches and Justice R. M. Douglas, Supreme Court, Raleigh, N. C.:

We have learned with surprise and indignation of the partisan and unjustifiable assault upon your judicial conduct. We believe this to be the first instance in which the power of impeachment has been invoked for the transparent purpose of packing our highest tribunal in order to consummate and confirm an unconstitutional scheme of disfranchisement. This startling proceeding, as insolent and revolutionary as it is groundless and wicked, should be condemned by every fair-minded and patriotic man in the State.

(Signed.)

J. C. PRITCHARD,  
R. Z. LINNEY,  
RICHMOND PEARSON.

## "UNWISE AND INEXPEDIENT"

Elizabeth City, N. C., Feb. 4.—Special.—At a meeting of the Elizabeth City bar the following resolution was adopted:

"Whereas, There has been introduced in the North Carolina House of Representatives a resolution of impeachment against Chief Justice D. M. Furches and Justice R. M. Douglas; now therefore be it

"Resolved, That the members of the Elizabeth City bar are of the opinion that said proceeding is, in view of the circumstances, unwise and inexpedient, and should not be further pursued."

J. HEYWARD SAWYER, Chairman.  
PERRY W. McMULLAN, Secretary.

## BROWBEATING OF REPUBLICANS

This Question Discussed at Length in the House Yesterday

The House yesterday spent very nearly an hour discussing an editorial in the Charlotte Observer relative to the subject of browbeating of Republicans by the Democratic majority. A resolution censuring the Charlotte paper was introduced by Mr. Morgan of Johnston, and, though its adoption was urged, it was referred to the Committee on Judiciary.

The matter was first brought up in the House by Mr. Winston of Bertie, who arose to a question of personal privilege. Mr. Winston said:

"I rise to a question of privilege—a privilege that is not peculiarly personal to myself, but which touches every member of this House, and especially the Democratic members.

"I read the following from the Charlotte Observer of February 2, 1901: 'There has been in this Legislature more or less browbeating of the handful of Republicans in it.'

"Mr. Speaker, this is not given as a news item or a mere rumor. It appears in the editorial columns of that paper. It is used in the discussion of a question of grave moment now under investigation before the proper committee of this House.

"I shall not call in question the opinions of the editor as they appear in this article; but I do desire to be understood as saying that the statement I have read is both untrue and unwarranted by anything that has occurred here.

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