

COL. Y. J. POPE, of Newberry, will probably run against General Wallace for the judgeship of the seventh circuit.

WHEN CARPENTER was arrested for stealing from the State, Radical papers howled persecution. Now that he is in jail for robbing the United States, will the pap organs not howl a little more?

SENATOR MORTON, of Indiana, is dead at last. He died on Thursday afternoon at Indianapolis. His successor will be appointed by "Blue Jeans" Williams, and will therefore be a Democrat.

CONGRESSMAN POTTER of New York asks to be excused from serving as chairman of the Pacific railroad committee, on the ground that he is largely interested in one of Tom Scott's Pennsylvania roads. This would be just the reason why an average Radical would banker for that position.

THE Register denies the assertions of Northern newspapers that Governor Hampton wants Patterson's place in the Senate. The governor has already said that he intends to serve out the full term to which he was elected by the people. It is time enough to talk of the Senate in 1878.

MR. H. G. WATSON is one of the Democratic nominees for the Georgia Legislature. As one of the Editors of the *Augusta Chronicle & Constitutionalist*, he has already made his mark in journalism. A brilliant career is predicted for him in "the halls of our fathers."

THE KERSHAW *Journal and Gazette* has separated into its component elements; Capt. Trantham and Mr. Alexander taking charge of the *Journal*, and Mr. Beard resuming control of the *Gazette*. Whether there is room in Kershaw for two papers we are unable to judge, but we are free to say both deserve success, and a plenty of it. They have our best wishes.

VICE PRESIDENT WHEELER is honoring the five carpet-bag senators in a ridiculous manner in order to keep them from bolting to the Democrats. Patterson is chairman of the committee on Territories, Dorsey chairman of the District of Columbia committee, Conover of the committee on enrolled bills, Spencer of the committee on the military, and Bruce, colored, of Mississippi, of the committee on levees. They have also other prominent positions, Patterson serving also on the Committees on Education and Labor, on Commerce and on Civil Service and Retrenchment. The last is a grim joke. If there ever was a man able to defeat or evade civil service and retrenchment, it is Honest John.

Who is Judge?

Justice in South Carolina is just now poised on the horns of a dilemma, and she doesn't seem to know exactly how to ease herself down without tearing her clothes. Learned pundits of the law say that if Kershaw is judge, the other so-called judges are mere private citizens—nobodies; and conversely, if they are judges, he is not. But which is which has not been decided. The trouble thus arises.

In art. II, section 24, the Constitution says:

"In all elections by the general assembly, or either house thereof, the members shall vote *viva voce*, and their votes, thus given, shall be entered upon the journal of the house to which they respectively belong."

In art. IV, section 13, the following language is used:

"The State shall be divided into convenient circuits, and for each circuit a judge shall be elected by joint ballot of the general assembly, who shall hold his office for a term of four years."

The trouble consists in the provision for a "*viva voce*" vote in one section, and a "joint ballot" in another, which some construe into an irreconcilable conflict of terms.

All the circuit judges were elected by *viva voce* vote until this year, when Judge Kershaw was chosen by a secret ballot in a joint session of the two houses. At the time, THE NEWS AND HERALD advocated the *viva voce* vote, and it now sees no reason to change its opinion, nor to cease its regret that Judge Kershaw was not elected as the other judges had been. As our feelings and our judgment differ we give the reasons for the latter.

The object in interpreting laws is to make them harmonize, if possible. In the election by secret ballot, the two sections of the Constitution are directly antagonized. The question then arises which must prevail. This is a question of law. But, on the other hand, the old system of electing the judges by joint *viva voce* vote, harmonized the two sections, giving the latter section a meaning which, without any forcing at all, brings it within the first provision. In this light, the provision that judges shall be elected by joint ballot means simply that the houses shall meet in joint session, instead of voting separately. The adjective "*joint*" is the emphatic word, not the word "ballot," which is there used loosely for "vote." Indeed, according to the Register, the original draft of this very section in the Constitutional convention contained the word "vote," and there is no record of any amendment substituting the word "ballot." Now, we should consider this change merely clerical, as "joint ballot" is a very common term, used by the "profane" to express any sort of joint voting. For instance, the assembly elects a United States senator *viva voce*, and yet how many people, members of the Legislature, candidates and others, speak of this as a "joint ballot"? And it is natural to suppose that the members of the "Ringed, Streaked and Striped" were able to weigh the meaning of words nicely. On the other hand, after the *viva voce* method of voting had been adopted; when the provision to elect judges by "joint vote" came up, it would hardly have been changed into "joint ballot," so as to conflict with the preceding section without some argument, or at least some amendment made officially and reported in the journal. If we mistake not, supreme judges, regents of the asylum, United States senators, trustees of the university and other officials were all elected by a joint *viva voce* vote. Why then should this conflicting provision have been inserted in a section originally conforming to the general plan? And especially, how was it done without notice being taken of the change? If the on-grossing clerks of our Democratic Legislature can make mistakes affecting the sessions of the courts in one or two counties, why should not similar verbal inaccuracies have appeared in the work of underlings of the Radical convention?

Another argument is that the same men who made the constitution, subsequently sat in the Legislature and elected the circuit judges. They would have remembered their former action in segregating this peculiar election from all others. That they voted *viva voce* shows that no difference was intended; for sufficient time had not yet elapsed for outside causes and dotting scruples to fetter their inborn reason. Moreover, this ambiguity was not discussed until the time of the Whipper-Moses embroglio, when Radical politicians had each other by the ears.

This question has been brought before the Supreme Court by a *quo warranto* against Judge Shaw, who has been selected because his undoubted Democratic proclivities will prevent the howl of persecution being raised. The decision of that tribunal is not known. It may agree with the Attorney-General and the Legislature. It may, how-

ever, decide adversely to Judge Kershaw, who, of course, would be immediately re-elected.

We will recapitulate briefly our grounds:

1. The Constitution should be so interpreted as to make its provisions harmonize, if possible.
2. The symmetry of the whole—its general plan—requires that elections for judges, as in case of all other elections, should be *viva voce*.
3. Any provision of the Constitution should be so plain as to admit of no doubt whatever, before it be made to fly in the teeth of a previous sweeping provision, and destroy a general symmetry pervading the whole. If it be at all ambiguous, the benefit of the doubt should be given in favor of analogy and precedent; that is, to a *joint viva voce* vote.
4. In the light of surrounding circumstances—taking into consideration the first draft of the section in question; the uniform system pursued in judicial elections, by legislators who had framed the Constitution; the popular use of the word "ballot," its interchange by the unlearned with the word "vote," the introduction of the word "joint," showing that as the emphatic portion of the sentence—the expression "joint ballot" can be construed into "joint vote."
5. Therefore let that construction be taken, so as to avoid confusion and difficulty.

SOUTH CAROLINA NEWS.

The sixth Pee-Dee fair was held at Cheraw on the 24th, 25th and 26th ult. It was a great success.

The Charleston Chamber of Commerce will ask Congress for ten thousand dollars for the improvement of the harbor.

Judge Maher is not a candidate for the associate justiceship, but will run for circuit judge when a vacancy occurs.

Tim Hurley has been summoned as a witness before the Investigating Committee. His testimony will be rich, rare and racy.

The Charleston Chamber of Commerce have refused to grant aid to the Liberia Exodus, on the ground that they consider the mission of the colored man to be more here than in Africa.

J. B. Campbell, Esq., and Hon. H. D. Lousens are spoken of in connection with the Charleston Senatorship. The Democratic nominating convention has been called.

Judge Northrop's confirmation as U. S. District Attorney by the Senate will be hotly contested. The "stalwart" Republicans and the New York Radical papers are pitching into him heavily.

The Clark Light Infantry, of Augusta, have challenged the Atlanta Cadets to meet them at the South Carolina State Fair at Columbia, and there contend for the championship of Georgia—the contest to be decided by three officers of the United States Army, to be selected from Fortress Monroe, and who are not to be acquainted with either company. If the Cadets accept the challenge a lively time may be expected.

The Beaufort *Tribune* says: "The brig Derwent, Capt. Robert Wilkerson, said to be the oldest vessel that floats, is again in our waters. The Derwent was built in 1776, and has her original planks and timber still as sound as the day they were put together, and is as staunch as when first built. She registers 270 tons, though her burthen is nearer 360. She is of Merryport, Cumberland, England. Her captain is a social, jolly tar, and is as proud of his ship as an Indian is of a jewel in his nose."

Wines, Liquors Tobacco, &c.

FINE Pale Sherry Wine, fine N. C. Seppemong Wine, fine old Porto Port Wine, fine imported Claret Wine, For table use.

ALSO,

Fine article dry Seppemong Wine, Otard's & Co. genuine Cognac Brandy, pure N. C. Apple Brandy, ch-ico Stone Mountain (Georgia) Corn Whiskey, pure N. C. Sweet Mash Corn Whiskey, My Cabinet Rye—the best whiskey in town, and a full stock of all other good Liquors. Also, the celebrated Indian Pale Ale, fresh Lager and Sweet Sparkling Cider on draught. The largest and best selected stock of Havana Cigars and Cigarettes in town, Blackwell's genuine Smoking Tobacco, Messina Oranges and Lemons for sale low for cash by
J. W. HABENICHT.
June 13.

The State of South Carolina,
COUNTY OF FAIRFIELD.

Court of Common Pleas.

Samuel B. Lathan vs. W. Watt Brice,
Wm. J. Lathan and John J. Caldwell.

IN pursuance of an order from the Court of Common Pleas in the above stated case, I will offer for sale before the Court House door in Winnsboro, on the first Monday in November next, within the legal hours of sale, the following described property, to wit:
All that plantation or tract of land lying in Fairfield county, on waters of Wateree Creek, containing FIVE HUNDRED AND FIFTY-THREE AND THREE-QUARTERS ACRES, more or less, and bounded by lands of Samuel B. Lathan, A. B. Montgomery, and the lands of W. Watt Brice.

TERMS OF SALE:

One-third of the purchase-money to be paid in cash, the balance on a credit of one and two years, with interest from day of sale—the purchaser to give his bond and a mortgage of the premises, and to pay for all necessary papers,
S. W. RUFF,
S. F. C.
Sheriff's Office,
Winnsboro, S. C.,
October 5, 1877.
oct 6-tds

The State of South Carolina.

TO Daniel W. Gladden, James Tidwell and Keziah Tidwell his wife, Isaiah T. Gladden, William H. H. Minge and Mary Jane Minge his wife, legal heirs and representatives of Minor Gladden, who died intestate:

YOU are hereby required to appear at the Court of Probate to be holden at Fairfield Court House for Fairfield County, on the 16th day of December, A. D. 1877, to show cause, if any you can, why the real estate of Minor Gladden deceased, described in the petition of Eliza J. Powell filed in my office, should not be divided or sold, allotting to the said Eliza J. Powell one-half, and to the said Daniel W. Gladden, Keziah Tidwell and Isaiah T. Gladden the other half in equal proportions between them. Given under my hand and seal, this 4th day of October, A. D. 1877.

O. R. THOMPSON,
Judge of Probate
Fairfield County

TO the defendants Daniel W. Gladden, James Tidwell and Keziah Tidwell his wife, William H. H. Minge and Mary Jane Minge his wife.

TAKE notice that the summons in this action, of which the foregoing is a copy, was filed in the office of the Probate Court, at Winnsboro, in the county of Fairfield, in the State of South Carolina, on the 14th day of October, A. D. 1877.

JAS. H. BRON,
Petitioner's Attorney,
Winnsboro, S. C.

oct 9-1aw6

Estate Sale.

BY virtue of a power of attorney given to me by those interested in the estate of D. H. Ruff, deceased, I will offer for sale at public outcry, at Ridgeway, S. C., on the 20th day of November next, the following real property belonging to the estate of the said D. H. Ruff, deceased:

- One lot of land, containing about four acres, on which stands a two story dwelling-house.
- Two lots of land, one acre each, on each of which stands a cot age.
- One lot of land, containing one half of an acre on which stands a small cottage.
- One tract of land on Dutchman's Creek, containing one hundred and seventy-five acres, more or less.

ALSO,

By virtue of authority given to me by the Probate Judge, I, as executor of the will of D. H. Ruff, deceased, will sell, at the same time and place, the following personal property:
One fine Piano (Knabe), 7 1/2 octaves.
One fine Parlor Organ.
Two Gold Watches.
One Baggy and Harness.
One Eight-day Clock.
One set of Walnut Furniture, complete.
Two Milch Cows and Calves,
Household and Kitchen Furniture, and other articles.

TERMS OF SALE—For real estate, one-third cash, and the balance on a credit of one and two years, with interest from day of sale, to be secured by bond of purchaser and mortgage of the premises; purchaser to pay for all necessary papers and to procure policies of insurance on the several buildings, to be continued until the purchase-money be paid, and assign the same to A. F. Ruff. For personal property, CASH on day of sale.

A. F. RUFF,
Attorney in Fact
and Executor.

oct 13-11x3w

SHERIFF'S SALE.

BY virtue of an execution to me directed I will offer for sale before the Court House door in Winnsboro, on the first Monday in November next, within the legal hours of sale, FOR CASH, the following described property, to wit:

All that plantation or tract of land lying in Fairfield County, on waters of Beaver Creek, containing THREE HUNDRED AND FORTY-SEVEN ACRES, more or less, and bounded by lands of Mrs. J. P. Coleman, Miss Sallie P. Lyles, P. M. Lyles and others.

ALSO,

One tract of land lying in Fairfield County, on waters of Rocky Creek, containing ONE HUNDRED AND SEVENTY-THREE ACRES, more or less, and bounded by lands of Wesley Mayfield, J. C. Fenster, Estate of H. J. Lyles, Mrs. M. E. Means, Isaac H. Means and Samuel B. Clowney, all levied on as the property of W. S. Monteith and Richard O'Neale, at the suit of Edwin S. Scott, survivor.

S. W. RUFF,
S. F. C.
Sheriff's Office,
Winnsboro, S. C.,
October 13, 1877.

oct 16-11x2

Fire Insurance.

NOW is the time to insure your Dwellings, Barns and Gin Houses. Ample security offered in the OLD AND WELL ESTABLISHED COMPANIES represented at this Agency.

Apply to
JAS. W. LAW,
Insurance Agent.

oct 11-x1m

Columbia Business Cards.

HEADQUARTERS for cheapest Groceries and Hardware in Columbia to be found at the old reliable house of
LODRICK & LOWRANCE.

HIX'S, Portraits, Photographs, Stereoscopes, &c. All old pictures copied. Art Gallery Building, 124 1/2 Main Street, Columbia, S. C. Visitors are cordially invited to call and examine.

CHARLES ELIAS, formerly of Camden, has moved to Columbia, and opened a large stock, of Dry Goods and Notions, Boots, Shoes, Trunks and Valises. Satisfaction guaranteed.

DIERCK'S & DAVIS, Importers and dealers in Watches, Clocks, Jewelry, Silver and Plated Ware, House Furnishing Goods, &c. N. B.—Watches and jewelry repaired. Columbia, S. C. oct 27-y

Augusta Advertisements.

BEST Dry Goods House in the South. All express freights paid where the order is \$10.00. Write a Postal for Samples and Price List.
V. RICHARDS & BRO.,
oct 27- Augusta, Ga.

G. V. DeGraaf,

Wholesale and Retail
FURNITURE DEALER

—AND—
Undertaker.

Undertaking in all its Branches.

147, 147 1/2 and 149 Broad St.
AUGUSTA, GA.

PARLOR SUITES.

Six Chairs, Hair Cloth or Reps,	\$21
“ “ “ “ “ “	24
“ “ “ “ “ “	28

PARLOR ROCKERS.

Carved Top, Hair Cloth or Rep,	900
“ “ “ “ “	11 00
“ “ “ “ “	14 00
“ “ “ “ “	17 00

MATTRESSES.

Straw and Cotton,	\$3 50
“ “ “ “ “	4 00
Shack and Cotton,	3 75
“ “ “ “ “	4 25
Cotton,	9 00

SIDEBOARDS.

Marble Tops,	\$22
“ “ “ “	15
“ “ “ “	30
“ “ “ “	45
“ “ “ “	50
“ “ “ “	150

PARLOR SUITS.

Seven pieces, Hair Cloth or Reps,	\$ 45
“ “ “ “ “	50
“ “ “ “ “	60
“ “ “ “ “	70
“ “ “ “ “	80
“ “ “ “ “	90
“ “ “ “ “	100
“ “ “ “ “	125
Nine “ “ “ “ “	150
Eight “ “ “ “ “	450

G. V. DEGRAAF,
Augusta, Ga.
No charge for drayage or packing.

The State of South Carolina
COUNTY OF FAIRFIELD.

In the Probate Court.

Samuel A. Murphy, as Administrator, vs.
Tarieton Murphy and Others.

IN pursuance of an order from the Court of Probate for Fairfield County, made in the above stated case, I will offer for sale before the Court House door in Winnsboro, on the first Monday in November next, within the legal hours of sale, all the right, title and interest of Ephraim M. Murphy, deceased, in a certain lot of land lying and situate in the town of Winnsboro, containing one-fifth of an acre, more or less, and embraced within the following area, to wit: commencing at the south-west corner of lot number one hundred and thirty-two of said town and thence running south along Congress street thirty-five feet, then cornering and running at right-angles to said street in an easterly direction about two hundred and fifty-seven feet to the track of the Charlotte, Columbia and Augusta Railroad Company, then cornering and running in a northerly direction along said track thirty-five feet to the southern line of lot number seventy-two, then cornering and running in a westerly direction along the southern line of lots number seventy-two and one hundred and thirty-two about two hundred and fifty-five feet, to the beginning points.

TERMS OF SALE:

One-half cash, the balance on a credit of one year, with interest from day of sale, purchaser to give his bond secured by a mortgage of the premises sold, and to pay for all necessary papers.

ALSO, FOR CASH:

All the personal property, consisting of one Gold Watch and the uncollected notes and accounts belonging to the estate of the said Ephraim M. Murphy, deceased.

S. W. RUFF,
S. F. C.
Sheriff's Office,
Winnsboro, S. C.,
October 9, 1877.

oct 13-tds

FOR SALE.

A new Piano, made by one of the leading manufacturers of the United States. The instrument has a compass of seven and one-third octaves, and is furnished with all the latest improvements. It can be bought at a great reduction from retail price.

Apply at the office of THE NEWS AND HERALD.
June 23-4f