

# The Watchman and Southron.

THE SUMTER WATCHMAN, Established April, 1850.

"Be Just and Fear not—Let all the Ends thou Aims't at, be thy Country's, thy God's and Truth's."

THE TRUE SOUTHRON, Established June, 1866.

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## Work of the Constitution Makers.

### A Short Session Tuesday, but Many New Measures Introduced.

### A Night Session and Addresses by Women Suffragists.

September 18.

The session of the Convention yesterday was of short duration and quiet. A large number of measures were introduced and referred to the proper committees.

Mr. D. H. Russell, of Anderson, introduced a suffrage ordinance. Mr. W. Black Wilson, of New, also proposed a plan of suffrage.

Anderson, the colored delegate from Georgetown proposed a resolution making school attendance compulsory.

Mr. E. L. Lybrand proposed a resolution providing for the support and government of the public schools. He would have a school tax of 2 1/2 mills on all property and a poll tax of \$1.

The two most important measures introduced were the scheme to place the county finances on a cash basis, proposed by Mr. D. S. Henderson, and a new judicial system. The texts of the resolution are as follows:

1. The judicial power of this State shall be vested in a Supreme Court, or a Court of Common Pleas having civil jurisdiction and a Court of General Sessions having criminal jurisdiction only, a County Court having limited jurisdiction, both civil and criminal, Justices of the Peace and such municipal Courts as the Legislature may think proper to establish.

2. The Supreme Court shall consist of a Chief Justice and two Associate Justices; any two of whom shall constitute a quorum. They shall be elected by the joint vote of the General Assembly for the term of six years, and shall be so classified that one of the Justices shall go out of office every two years.

3. The Supreme Court shall have appellate jurisdiction only in cases of chancery and shall constitute a Court for the correction of errors at law, under such regulations as the General Assembly may by law prescribe: Provided, the said Court shall always have power to issue writs of injunction, mandamus, quo warranto, habeas corpus and such other original and remedial writs as are necessary to give it a general supervisory control over all other Courts of the State.

4. The Supreme Court shall be held at least twice in each year at the seat of government.

5. No Judge shall preside in the trial of any cause in the event of which he is interested, has been of counsel or is connected with either party, affinity or consanguinity, within such degrees as may be prescribed by law, and in case any or all of the Judges are disqualified from presiding in any cause or causes the Court, or the Judges thereof, shall certify the same to the Governor of the State, who shall at once commission specially the requisite number of men learned in the law for the trial and determination thereof. The same course shall be pursued in the Circuit and County Court as is prescribed in this section of cases for the Supreme Court.

6. The Judges of the Supreme Court shall appoint the reporter and clerk for said Court, who shall hold office for two years and receive such compensation and perform such duties as shall be prescribed by law.

7. When a judgment or decree is reversed or affirmed by the Supreme Court every point made and distinctly stated in writing in the cause and fairly arising upon the record of the case, shall be considered and decided, and the reasons therefor shall be concisely and briefly stated in writing and preserved with the records of the case.

8. The Judges of the Supreme Court and the Circuit Courts shall at stated times receive for their services a compensation to be fixed by law, which shall not be diminished during their terms of office. They shall not be allowed fees or perquisites, and shall hold no other office of profit or trust under this State or the United States.

9. No person shall be eligible to the office of Judge of the Supreme Court or Circuit Courts who is not at the time of his election a citizen of the United

States, and a qualified voter under the laws of this State, and has not attained the age of 35 years, and have practiced law for ten years.

10. Vacancies in the offices of the Judges of the Supreme Courts and of the other Courts provided herein shall be filled by election herein provided, unless the unexpired term is less than one year, when they may be filled by executive appointment. All Judges are by virtue of their office conservators of the peace.

11. In all cases decided by the Supreme Court concurrence of two of the Judges shall be necessary for a decision.

12. 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 the term of four years, and during his continuance in office he shall reside in the circuit in which he is Judge.

13. Judges of the Circuit Court shall interchange circuits with each other in such manner as may be determined by law.

14. The Court of Common Pleas shall have exclusive original jurisdiction in all civil cases and actions ex delictor, which shall not be cognizable before the County Courts and Justices of the Peace, and appellate jurisdiction in all such cases as may be provided by law. They shall have power to issue writs of mandamus, prohibition scire facias and all other writs which may be necessary for carrying their power fully into effect.

15. The Court of Common Pleas shall sit in each judicial district in this State at least twice in every year, at such times and places as may be appointed by law. It shall have jurisdiction in all matters of equity.

16. It shall be the duty of the Judges of the Supreme and Circuit Court to file their decisions within sixty days from the last day of the term of the Court at which the causes were heard.

17. The Court of General Sessions shall have exclusive jurisdiction of all criminal cases not otherwise provided for by law, and shall sit in each county in the State at least three times during the year.

18. Judges shall not charge juries in respect to matters of fact, but may state the testimony and declare the law.

19. There shall be in each county a County Court presided over by a Judge, to be elected by the qualified voters of the county, and who shall hold his office for the term of four years and who shall receive such compensation as may be provided by law, and be permitted to practice in the Supreme and Circuit Courts in cases which have not been before his Court.

20. The County Courts shall have exclusive jurisdiction in all civil cases and actions ex delictor where the amount involved does not exceed the sum of three hundred dollars, and in all matters testamentary and of administration, in business pertaining to minors and the allotment of dower, in cases of lunacy and idioty and persons non compos mentis, and criminal jurisdiction in all misdemeanors.

21. Procedure in the County Courts shall conform as near as possible to that of the Circuit Courts: Provided, that the intervention of the grand jury shall not be necessary and trial juries shall consist of six jurors.

22. The County Court shall hold its session every two months in the year for the trial of causes and shall be open at all times in matters heretofore devolving upon the Probate Court and causes in which a jury has been waived.

23. The clerk of the Circuit Court shall be the clerk of the County Court.

24. The sheriff of the county shall attend upon the sessions of the County Courts and serve its process.

25. There shall be in each county a number of justices of the peace, to be prescribed by law, who shall be appointed by the Governor of the State for a term of two years, and who shall receive such compensation as shall be fixed by the Legislature.

26. The jurisdiction of justices of the peace in matters criminal shall be that of a committing officer. They shall issue warrants of arrest and, if, upon a probable cause shown, shall commit to jail or bind over to the proper Court the parties charged. In matters civil they may try cases at law where the amount involved does not exceed twenty dollars.

The night session was given up to the woman suffragists advocates. Addresses were made by Miss Clara M. Clay, of Kentucky, Mrs. Virginia D. Young and Mrs. Viola Neblett. There was a large crowd present to hear the women talk.

### Wednesday's Proceedings.

The only excitement Wednesday was the Patterson resolution denouncing *The State* for its editorial criticism of the misstatement of a vote.

There were a number of new resolutions and ordinances introduced, and two committee reports submitted. The Committee on Corporations made a report and the Committee on Declaration of Rights.

George Tillman offered a resolution providing for the establishment of a whipping post.

Several new suffrage schemes were proposed.

The declaration of rights as reported and Judge Fraser's resolution for the creation of a court of errors are given below.

Mr. Mower, from the committee on declaration of rights, presented the following article of the constitution, which has, it is understood, been practically agreed to by the committee already:

An ordinance relating to the declaration of rights.

Be it ordained by the people of South Carolina, in convention assembled, and by the authority of the same, that the following provisions shall constitute the declaration of rights to be embodied in this constitution as article I:

Section 1. All political power is vested in and derived from the people only, therefore they have the right at all times to modify their form of government in such manner as they may deem expedient when the public good demands.

Sec. 2. All powers not herein delegated are reserved to the people nor shall the enumeration of certain rights herein be construed to deny or disparage others retained by the people.

Sec. 3. Representation shall be apportioned according to population.

Sec. 4. The General Assembly ought frequently to assemble for the redress of grievances and for making new laws as the common good may require.

Sec. 5. The General Assembly shall make no law respecting an establishment of religion or prohibiting the free exercise thereof provided that the liberty of conscience hereby declared shall not justify practices inconsistent with the peace and moral safety of society; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble and to petition the government or any department thereof for a redress of grievances.

Sec. 6. The privileges and immunities of citizens of this State and of the United States, under this constitution shall not be abridged, nor shall any person be deprived of life, liberty or property without due process of law; nor shall any person be denied equal protection of the law.

Sec. 7. All property subject to taxation shall be taxed in proportion to its value.

Sec. 8. No tax, subsidy, charge, impost or duties shall be established, made or levied under any pretext whatsoever without the consent of the people or their representatives lawfully assembled.

Sec. 9. No bill of attainder, ex post facto law, law impairing the obligation of contracts, nor law granting any title of nobility or hereditary emolument shall be passed and no conviction shall work corruption of blood or forfeiture of estate.

Sec. 10. The right of citizens of this State to vote shall not be denied or abridged on account of race, color or previous condition of servitude.

Sec. 11. The right of suffrage as regulated in this Constitution shall be protected by laws regulating elections and prohibiting under adequate penalties all undue influences from power, bribery, tumult or improper conduct.

Sec. 12. All elections shall be free and open and every inhabitant of this State possessing the qualifications provided for in this Constitution shall have an equal right to elect officers and be elected to fill public office.

Sec. 13. No property qualification shall be necessary for an election to or the holding of any office, and no office shall be created, the election or appointment to which shall be for a longer term than good behavior. After the adoption of this Constitution whoever shall fight a duel or send or accept a challenge for that purpose, or be an aider or abettor in fighting a duel shall be deprived of holding any office of honor or trust in this State and shall be otherwise punished as the law shall prescribe.

Sec. 14. Temporary absence from the State shall not forfeit a residence once obtained.

Sec. 15. The power of suspending the laws or the execution of the law shall only be exercised by the General Assembly or by its authority in particular cases expressly provided for by it.

Sec. 16. In the government of this State, the legislative, executive and judicial powers of the government shall be forever separate and distinct from each other, and no person or persons exercising the function of one of said departments shall assume or discharge the duties of any other.

Sec. 17. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist in this State.

Sec. 18. All courts shall be public and every person shall have speedy remedy therein for wrongs sustained.

Sec. 19. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated and no warrants shall issue but upon probable cause supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized.

Sec. 20. No person shall be held to

answer for any crime where the punishment exceeds a fine of \$100 or imprisonment for thirty days, unless on a presentment or indictment of a grand jury of the county where the crime shall have been committed, except in cases arising in the land or naval forces or in the naval militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be put twice in jeopardy of life or liberty; nor shall be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty or property without due process of law; nor shall private property be taken for public use without just compensation.

Sec. 21. In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the county where the crime shall have been committed and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor and to have the assistance of counsel in his defense.

Sec. 22. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted, nor shall witnesses be unreasonably detained. Corporal punishment shall not be inflicted. The power to punish for contempt shall not in any case extend to imprisonment in the State penitentiary.

Sec. 23. All persons shall before conviction be bailable by sufficient sureties except for capital offences, when the proof is evident or the presumption great.

Sec. 24. In all indictments or prosecutions for libel the truth of the alleged libel may be given in evidence and the jury shall be judges of the law and the facts.

Sec. 25. The privilege of the writ of habeas corpus shall not be suspended when in cases of insurrection, rebellion or invasion, the public safety may require it.

Sec. 26. No person shall be imprisoned for debt except in cases of fraud, and a reasonable amount of property as a homestead, shall be exempted from seizure or sale for the payment of debt or liabilities, except for the payment of such debt or liabilities as are provided for in this Constitution.

Sec. 27. In all civil actions formerly known as suits at common law, where the value in controversy shall exceed \$20, the right of trial by jury shall be preserved inviolate.

Sec. 28. A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed. As in times of peace armies are dangerous to liberty, they shall not be maintained without the consent of the General Assembly. The military power of the State shall always be held in subordination to the civil authorities and be governed by it. No soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in the manner to be prescribed by law.

Sec. 29. No persons shall in any case be subject to martial law or to any pains or penalties by virtue of that law except by those employed in the army and navy of the United States and except the militia in actual service by the authority of the General Assembly.

Sec. 30. No person who has conscientious scruples against bearing arms shall be compelled to do so, but he shall pay an equivalent for personal service.

Sec. 31. All navigable waters shall forever remain public highways free to the citizens of the State and the United States without tax, impost, or toll imposed; and no tax, toll, impost or wharfage shall be imposed, demanded or received from the owner of any merchandise or commodity for the use of the shores on any wharf erected on the shores or in or over the waters of any navigable stream unless the same be authorized by the General Assembly.

Sec. 32. The provisions of the Constitution shall be taken, deemed and construed to be mandatory and prohibitory and not merely directory except where expressly made directory or permissive by its own terms.

Judge T. B. Fraser offered the following:

"Whenever upon the hearing of any cause or question either at law or equity before the Supreme Court it shall appear to the justices of the same, or any two of them, that there is a question of constitutional law or of conflict between the Constitution and laws of this State and of the United States, or the duties and obligations of the citizens under the same, it shall be the duty of the chief justice, or in his absence of the presiding associate justice, to convene a court of errors for the determination of the same, which court shall consist of all the judges of the Supreme Court and of the Circuit Courts, the decision of which court or a majority of the judges sitting in the same, shall be final and conclusive; and the chief justice, or in his absence, the presiding associate justice, shall also convene the court of errors at the request of any two of the justices of the Supreme court, for the determination of any other cause or question to

be submitted to them, and the decision of said court, or a majority of the judges sitting in the same, shall be final and conclusive; and the chief justice, or in his absence, the presiding associate justice, shall preside whenever the court of errors shall convene."

### Thursday.

The day was wasted in a lengthy and partisan discussion of the Patterson resolution denouncing *The State* for editorially criticizing President Evans' misstatement of a vote. A great many delegates took part in the debate and as many more explained their votes for or against the resolution.

The most notable speech of the day was that made by Senator Tillman. He is reported by the *State* as follows:

Senator B. R. Tillman then took the floor. He seemed to be pretty well wrought up. He believed that they were all about agreed that this was never a matter for this convention; that it was unfortunate that it had made its appearance. But if it was unfortunate that it had been brought up, it would be doubly unfortunate if the convention did not act decisively upon it. Look at the men who had spoken on the matter. They were nearly all Conservatives. Politics, was in it; politics would crop out. Nearly every man who had spoken was a lawyer. They make their fine arguments about a vote of confidence, knowing full well how the outside public will take such action. They try to beat about the bush and sidetrack the main issue. He was sorry to see that not a single Conservative save two had come squarely out and expressed themselves on the main issue. What was the real issue? Some legally turned minds had talked about it being beneath the dignity of the convention to take notice of such things. It was not one of those things that you could go and take a stick and frail the man. Then pointing to Editor Gonzales and speaking with all the force and energy he possessed, he exclaimed: "But such methods are beneath the dignity of that gentleman over there, who has dished out more malice and hatred and hell fire and damnation in this State in the last few years than has come from any mouth—save mine, perhaps." Mr. Gonzales bowed ironically to him and there was laughter. It was the duty of the convention to show to him in a plain way that if he came into the hall he must behave himself.

Mr. Barker rose and said that he desired to call the member from Edgefield to order. He had no right to impugn the motives of the members of the convention and inject personalities; he had attacked the motives of the Conservative members.

Tillman: Well, the truth always hurts.

Senator Tillman continuing, said that there was no question here about the freedom of the press. They simply wanted to put members of the press on notice that they must keep within bounds or else vacate. Were they going to rebuke it? Yes they were going to rebuke it and there were enough of them to do it. They would do it despite what the opposition might say. Factional feeling was there. No one could deny it. It was in their hearts. He said he would have said nothing if the Conservatives had gone ahead and shown a disposition to rebuke this thing. But if the Conservatives meant to allow John Gary Evans, their president, to be insulted, he would chuck them with rocks and draw the lines. Mr. Barker again rose and called the gentleman to order saying that the gentleman should not be allowed to impugn the motives of members of the convention and designate them by pointing his finger at them.

President Talbert: In that case I hold that the gentleman is out of order and suggest that he proceed in order.

Senator Tillman then stated that the convention could not afford to let the matter be sidetracked now. The resolution had to be passed. They all saw and heard what took place on Monday, but who would dare say that the president stood there and flagrantly misstated the returns. If you pass this resolution, then I am satisfied.

The resolution which was adopted by a vote of 123 to 23 reads as follows: Whereas, *The State*, a newspaper, published in the city of Columbia, did on the 17th inst., in its editorial columns, contain the following statement in reference to the action of this convention in announcing the vote upon the motion to take a recess, when the question as to whether the name Saluda should be inserted in lieu of Butler in the resolution before the convention, on the 16th inst. to wit:

"On a division vote intended to defer

final action on the matter until Irby's forces could be rallied, the president openly and defiantly mistated the return of the teller, subtracting two announced votes from Irby's side in order that he might show a majority of one against postponement."

Resolved, First, That said editorial statement is unsupported by facts, Senator Irby having announced upon the floor of the convention that the announcement of said vote by the president was correct; and as said editorial is a reflection upon the honesty and integrity of the president of this convention, and an insult to this body, be it.

Resolved, Second, That the convention desires to express its entire confidence in the integrity, honesty and fairness of our president, the Hon. John Gary Evans, and we do hereby declare the statement in the aforesaid editorial to be unsupported by the facts and untrue.

Resolved, Third, That we consider the editorial in question an abuse of the privilege granted to the press, in admitting its members to the floor of the convention.

Among the resolutions introduced was the following by Mr. George P. McKagen:

"That no Senator or Representative during the term for which he shall have been elected, shall be appointed or elected to any civil office of profit or trust under the State."

The numerous measures introduced will go before the standing committees and those that are worthy will be incorporated the committee reports.

### Friday.

The committee reports were important and the Convention may be said to be taking shape.

The most important committee report was as follows:

Mr. Efrid, chairman of the committee on executive department, presented the report of that committee on all the resolutions referred to it, in the shape of the following article of the Constitution:

Section 1.—The supreme executive authority of this State shall be vested in a chief magistrate who shall be styled "the governor of the State of South Carolina."

Sec. 2. The governor shall be elected by the electors duly qualified to vote for the members of the House of Representatives, and shall hold his office for two years and until his successor shall be chosen and qualified, and shall be re-eligible. He shall be elected at the first general election held under this constitution for members of the General Assembly and at each general election thereafter, and shall be installed during the first session of the said General Assembly after his election on such day as shall be provided for by law. The other State officers-elect shall at the same time enter upon the performance of their duties.

Sec. 3. No person shall be eligible to the office of governor, who denies the existence of the Supreme Being or who, at the time of such election has not attained the age of thirty years, and who shall not have been a citizen of the United States and a resident of this State for five years next preceding the day of election. No person while governor, shall hold any office or other commission (except in the militia) under this State, or any other power at one and the same time.

Sec. 4. The returns for every election for governor shall be sealed up by the board of canvassers for their respective counties, and transmitted by mail to the seat of government, directed to the Secretary of State, who shall deliver them to the speaker of the House of Representatives at the next ensuing session of the General Assembly, and a duplicate of said returns shall be filed with the clerks of the courts of said counties, whose duty it shall be to forward to the Secretary of State a certified copy thereof, upon being notified that the returns previously forwarded by mail have not been received at his office. It shall be the duty of the Secretary of State, after the expiration of seven days from the day upon which the vote had been counted, if the returns thereof from any county have not been received, to notify the clerk of the court of said county and order a copy of the return filed in his office to be forwarded forthwith. The Secretary of State shall deliver the returns to the speaker of the House of Representatives at the next ensuing session of the General Assembly, and during the first week of the session, or as soon as the General Assembly shall have organized by the election of the presiding officers of the two houses the speaker shall open and publish them in the presence of both houses. The person having the

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