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MS 76 Box 20 Notebook 1 - The Test Oath. Rev. John Lea; Wm. H. H. Flick

Fred Bussey Lambert

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MS 76
BX 20
NBK 1

The Test Oath.
Rev. John Lee
Wm. H. H. Flick

MS 76
BX 20
NBK 1

Acts of 1870

Teachers' Oath (Exemption from)

Be it enacted by the Legislature
of West Virginia:

Section thirty-two of Chapter
forty-five of the Code of West
Virginia is hereby amended
and re-enacted so as to read
as follows:

32. Every Teacher shall, before
entering on his duties, take
an oath to support the con-
stitution and laws of the
United States and of this State,
and to faithfully discharge
his duties as such Teacher to
the best of his ability. Said
oath may be administered by
the county superintendent, or
by any other person authorized
to administer oaths."

Passed

"The Kingdom of Accomack" - or the
Eastern Shore of Va. in the 17th Cent. - ^{By Jennings Cropper N}
On Accomack Co - ^{The Bell Book & Stationer}
Co - Richmond, Va.

J.C. Wise

Mr. Beverly Fleet

Box 5161 - Saunders Station

Richmond, Va.

1870

Chapter 15. - An act to
amend and re-enact Section 3
Chapter 119, Code of West Vir-
ginia

Passed Feb. 7, 1870

Preamble

Whereas, Among other meas-
ures for the protection and
safety of the loyal people
of this State, the legislature
on the 14th day of February,
~~th~~ eighteen hundred and
sixty-six, wisely and justly
passed an act, entitled "An
act in relation to the oaths
of ^aattorneys-at-law, the
provisions of which act have
been incorporated into section
three, chapter one hundred
and nineteen of the code
of West Virginia; and whereas,
from frequent evasions of
the law, and from a change
of circumstances since the
passage thereof, the same
has become, in a great
measure, inoperative and
of little use; therefore.

Be it enacted, by the legislature
of West Virginia:

Section
amended

Section three of chapter one
hundred and nineteen of the
code of West Virginia is
hereby amended and re-enacted
so as to read as follows:

Oaths
prescribed
for attorneys-
at law

"3 Every attorney-at-law
shall, before each court,
in which he proposes to
practice, take the following
oath, that is to say:

If he be a resident of
the state, an oath to sup-
port the constitution of
the United States and the
constitution of the State of
West Virginia, and to honestly
demean myself in the practice
of the law, and to the best
of my ability execute his
office of attorney-at-law; and
if he be not a resident
of this state, an oath to
support the constitution of
of the United States, and to
honestly demean himself, in
the practice of the law, and to
the best of his ability execute his

Chapter 33. -

An Act repealing sections
10, 11, 12, and 13 of Chapter
136 of the Code of West Virginia.
Passed Feb. 25, 1870.

Be it enacted by the Legis-
lature of West Virginia.

Sections ^{Ten, etc} 10, 11, 12, and 13
of Chapter one hundred and
thirty-six of the Code of
West Virginia are hereby
repealed.

^{Sections}
prescribing
oath for
jurors, re-
pealed.

March 3, 1870 -

Chap. 109 - ⁺An Act amending
the Act, entitled, "An act
establishing a code of laws
for this State, in relation
to proceedings for a re-
hearing after judgment or
decree,

(This seems to be for -
benefit of ex-confederates
who by juror's test oath
etc. could sit on the

The National Genealogical
Society Quarterly (No. 2 June 1948)
5⁰⁰ for membership 1st yr.
3⁰⁰ to non-members
2⁰⁰ to members
1⁰⁰ for single number.
905 Massachusetts Ave., N.W.
Washington 1, D.C.

Cabell Co. Press

Dec. 20, 1869

Page 2 Col. 2

An interesting article
on Co. E. (Confederate Soldiers)
denies it was raised by
Gen. Jenkins. (Date of letter
Dec 9, 1869, & he refers
to a letter by some one
else - I judge in "Press"

Write for Report of the Secretary
of the Commonwealth to the Gov.
& the Gen. Assembly of Va. (1947)

The Division of Purchase
and Printing,
Richmond, Va

Cabell Co. Press

Dec. 27, 1869 - Editor

p. 3 Col 1 (Bottom) says he publishes "on the outside of today's paper, a report by Co. Supt. J. B. Kerne, efficient, etc

"He is an earnest advocate of the free school system and though while showing its beauties and noting its benefits he does not hesitate to expose the corruption and mismanagement that exists among some of its officers, - The existence of the teacher's test oath he cites as being a great drawback in securing competent teachers." Advocates be dispensed with, & the township boards control the school & they be selected with great care, etc.

From Journal of the Senate,
of the State of West Virginia,
for the Fourth Session
Commencing Jan. 16, 1866

p. 5 (The Governor's Message)

p. 7 - Bottom

1 1/2 pages. Copy - beginning at
"Bad Faith of Returned Rebels"
~~"Enforcement of Oaths of Loyalty"~~
to near bottom of p. 8 - "Jefferson
and Berkeley"

1 page p. 10 - to "Finance - the Auditor's
Report."

p. 24 Mr. Chapline, by leave, introduced
Senate Bill No. 1, entitled "A
Bill to explain and amend an
act passed Nov. 16, 1863, entitled
"An act concerning oaths and
affirmations, passed June 26, 1863"

Thursday Jan. 18, 1866

Mr. Chapline offered the following which lies over under the rules:

"Whereas, the most merciful policy and proclamations of the President of the United States, in regard to Rebels late in arms against the Government, instead of awakening a proper sense of gratitude upon their part and producing due deference and submission to the established laws of West Virginia, have resulted in many instances in open opposition to and defiance of the same and in a systematized attempt throughout the State to take possession of the ballot box and to prevent the organization of the government and the establishment of the civil law, except upon rebel terms, and the admission of rebels into office:—

Therefore, Resolved by

the Legislature of the State of West Virginia, that it is inexpedient at this time to modify or repeal any of the existing laws, restrictions, or disqualifications in this State in regard to persons who participated in the late rebellion"

Jan 19,
1866,
p. 28 - "On motion of Mr. Chapline, the Senate took up and adopted the joint resolution offered by him yesterday, in relation to the laws which affect disloyal persons."

p. 46 - Jan. 29, 1866

On motion of Mr. Hagar,
"Resolved, that the Committee on Privileges and Elections inquire into the expediency of imposing a fine of not less than \$50 nor more than \$100 upon all Supervisors and Inspectors of Elections who

shall hold any election without
first taking the oath of office
as required by law; and any
election held by such Super-
visors and Inspectors shall
be null and void; and
report by bill or otherwise."

Feb. 8, 1866

House Bill No. 60

p. 65

"A Bill removing
the County seat of Calhoun
County, and House Joint
Resolution No. 14, Agreeing
to the proposed amendment
to the State Constitution as
follows;

"Whereas, the Legislature
of this State, at its last
session, in conformity to
~~the const~~ to the constitution
agreed to the following
proposed amendment to
the constitution of this
State, to be added at the
end of the first section

of the third article thereof, to become part of the said constitution when ratified according to the provisions thereof namely:

n. 65

Feb. 9,
1866.

And no person who since the first day of June, 1861, has given or shall give voluntary aid or assistance to the rebellion against the United States, shall be a citizen of this State, or be allowed to vote at any election held therein, unless he has volunteered into the military or naval service of the United States, and has been or shall be honorably discharged therefrom.

And whereas, the said proposed amendment was published for at least three months before the last general election, in some newspaper, in every county in the State, in which there was, at that time, a newspaper printed &c.

Therefore, Resolved by the Legislature of West Virginia, that the said proposed amendment is hereby agreed to.

Wm. P. Hubbard

Clerk House of Delegates

("Said bills were each read the first time", etc. and No. 60 (was referred) to the Committee on Townships &c.

Court
Feb 9,
1862

Mr. Maxwell, from the same (Judiciary) Committee reported back Senate Bill No. 37, entitled "A Bill to authorize suits and proceedings which might under existing laws be brought in the County of Logan, to be brought and prosecuted in the County of Boone, recommending its passage and it was read the second time, and ordered to be engrossed."

Mr. Maxwell from the same
Committee reported back Senate
Bill No. ¹~~29~~, entitled, ~~A Bill~~
with a substitute therefor,
entitled, A Bill in relation
to the oaths of Attorneys-
at-Law, which was adopted
and the bill read the
second time and ordered
to be engrossed.

Feb. 10, 1866

Senate Bill No 1 - on
"oaths of attorneys-at-law"
up on 3rd reading -
defeated - Mr. Burdett
moved it be indefinitely
postponed - 3 votes for
14 against - Mr. Chapline
voted "Nay" Mr. Haymond
moved to lay it on the
table - Lost.

Passed
with its
title.

Senate Bill No 1, pending
when the Senate took a
recess, coming up again. Mr.
Mahon moved to lay on the
table. This lost it was read 3rd
time and passed.

Feb. 13, 1866

"On motion of Mr. Chapline
House Joint Resolution No. 14,
Agreeing to the proposed
amendment to the State
Constitution, was taken
from the Table, and having
been read on three several
days was adopted".
Chapline & Maxwell for
it.

Feb. 16 1866

p. 86 "Mr Burdett, by leave
introduced Senate Bill No. 62,
entitled A Bill to repeal
the act to prevent the pros-
ecution of suits, and the
suing out of process by
persons engaged in the
rebellion," which was read
the first time and referred
to the Committee on Judic

()
p. 92 - List of West Virginians in
Va. asylums some of whom
were from Cabell. & Wayne Cos.
See this

p. 100 - Feb. 17, 1866.

Long resolution showing
war conditions.

This seems to advocate
a bill to pay indepen-
dent companies

p. 103 - Mr Maxwell -

from Com. on Judiciary
reported back House
Bill No. 13 - on
suits brought against
Supervisors & Inspectors
of Elections, & providing
for the payment of
their costs, etc
2nd reading
ordered to 3rd "

p. 105 - Above passed on 3rd
reading - Feb. 20, 1866,

p. 111 - Bill for Isny and Otie
Navigation Co.

p. 119 -

Senate Bill No. 66,
entitled "A Bill in
relation to the oaths of
Sailors."

p. 121

On motion of Mr.
Price, House Bill No. 58,
entitled "A Bill to regulate
the Registration of voters,"
was taken up

But Mr. Maxwell offered as
a substitute the following:

Insert before the word
"provided" in the 37th line,
the words "and shall forthwith
notify said applicant in writ-
ing, that his name is
excluded, assigning briefly
the reason therefor."

The substitute was adopted
when Mr. Peck ~~withdrew~~ withdrew his
~~The subst~~
motion

Mr. Burdett renewed the
motion of Mr. Peck & demanded
the yeas and nays thereon.

and they were ordered and
taken

Chapline & Maxwell
voted "May"

On motion of Mr. Maxwell
the following was added at
the end of the 3rd section

"And provided further,
that every person shall be
registered who will be entitled
to vote at the first election
after the registration, by
reason of his arriving at
twenty-one years of age before
that time, or by reason of
his having then resided for
a sufficient length of time
in his election district, pro-
vided that he is otherwise
qualified according to the
provisions of this section"

p. 125

Mr. Maxwell moved that
Passed all the bill be re-committed
Vote - negative

Feb. 24/

1866.

Smith

will

pass

also

p. 126

Mr. Burley moved the
bill be re-committed for 10 1/2
made the special order for 10:30

Comm. on

House of Delegates in 1866

John S. P. Carroll ³⁶ Wayne Co
_{Farmer}

John S. Wilcher ²⁶ Carroll "
_{merchant}

Ulysses Hinchman 58 - Logan
_{Physician}

Senate
E. D. Wright 55 of
Guyandotte

Oaths

1. ~~When the state was reorganized~~
or rather when the members
of the Convention to frame a
new Constitution for a new
State met in the United States
Court Room, at 11 o'clock A.M.
(Nov. 26, 1861) and were called
to order, etc.

W. W. Brumfield, answered
for the house from Wayne
Granville Parker - Cabell Co

After a lot of details
had been attended to the
secretary called the roll by
counties, and administered to
~~them~~ the several members the
oath embraced in the Ordinance
for the Reorganization of the
State Government.

Delegates to Legislature

Cabell Co.	1865 (Began Jan. 17)	James H. Ferguson
Wayne "	"	Abel Segwer
Cabell	1866 - Jan. 16	John S. Witcher
Wayne "	"	Wm. W. Brumfield
Cabell	1867 - Jan 15,	James H. Ferguson
Wayne		John P. S. P. Carroll

General Notes on
Test Oath.

The Guy andotte Independent
O. G. Chase, Editor, began publishing
his paper, Thursday, April 6, 1871.
In his "Salutatory," he tells
conditions prejudice, etc. follow-
ing the Civil War. (copy more)

p. 2, Col. 2. The Editor, in stating his
position on calling a Consti-
tutional convention says:

"We are certainly not fool
enough to refuse to let the
people say whether they want
a convention, or not"

p. 2 Col 2 April 13, 1869

"A Proclamation
By the Governor

"In conformity with Joint Res-
olution, No. 19, of the Legislature,
adopted Feb. 15, 1871, notice is
hereby given that an election
will be held, at every place
of voting within the State of West
Virginia, on the 4th Thursday,
in April, 1871, being the 27th
day thereof, to ascertain the
sense of the qualified voters

on the ratification or rejection
of the following proposed amend-
ment to the Constitution of
the State, as a substitute for
Section one of Article three thereof
namely:

(That is the Flick Amendment
(^{by the} Governor) John J. Jacob
J. M. Phelps,
Secretary of State

The Editor comments:

"It was matured by Hon. M.
Flick, a Republican Lawyer,
and was passed by the Legisla-
ture, in 1870.

Some oppose because it
strikes out the word white,
others because it enfranchises
Confederate soldiers,

In 1867, there was an amend-
ment offered (to the Constitu-
tion) and approved, and by
the Proclamation of the
Governor A. S. Boreman, it
was attached to the First
section of the Third Article.
That amendment recognized the
Registration Law

and disfranchised the Confederate
soldier."

This law gives universal
male suffrage "with the usual
unobjectionable ~~to~~ exceptions.

April 20, 1871 - p. 2 Col. 3

Long Article on "Flick Amend-
ment and Constitutional Convention"

"By a resolution of the Leg-
islature adopted last Febru-
ary (1870^{or 71}), what is known as
the 1870 Flick Amendment to the
Constitution of West Virginia,
will be submitted to the people,
on the fourth Thursday of this
month (April. for adoption or
rejection) and the Legislature
at its last session also pro-
vided, for submitting to the
people, in August next, the
proposition of calling a Con-
vention to revise the Constitu-
tion of the State."

The Editor says some
oppose the Flick Amendment
because it does not cure all

4

the evils of the Constitution, and that a Convention having plenary powers to revise the Const. should be called.

The other favors the Flick Amendment, and opposes the revision of the Constitution,

Editor differs from either, advises both be voted for. Both are submitted to be voted on, at different times, hence, expense can't be avoided.

The Amendment will enfranchise Confederate soldiers, and will enable all male voters to vote on the question of a Convention.

~~May~~ May 4 p. 2 Col 2

~~April 27, 1871~~ (Thurs)

Says Flick Amendment was voted on last Thurs. & carried by large majority - probably 20 to 1 (In State)
Says there is now no need for a Convention.

May 4, 1871

p. 2 Col 4 -

From Barboursville

"The Flick Amendment was
carried here by a vote of
133 To 1"

Same p. 3 Col. 2

River Matters.

Speaks of Guyan River
being "raving mad",

Sketch from Prominent men of West Virginia
p.

WILLIAM H. H. FLICK.

An Ohion by birth, a West Virginian by adoption, now in the prime of life, (47 years old), Wm. H. H. Flick stands among ourreally prominent men of the new Commonwealth. He was reared on a farm in Northern Ohio, and in July, 1861, although a mere boy in age and size, he enlisted in the 41st Regiment of Ohio Volunteers. In the great battle of Shiloh he was dangerously wounded in the shoulder, his left arm still being disabled therefrom. He continued in the recruiting service of the Government until the fall of 1862, when he was honorably discharged because of disability resulting from the wound in his shoulder.

After returning to his Ohio home, he attended Hiram College, (President Garfield's school), for some time, and then engaged in teaching, which he kept up until the Spring of 1865. Having studied law in the meantime, he was regularly licensed to practice in September, 1865. In March 1866, he took up his residence in Moorfield, Hardy County, West Virginia; and in March 1867 he removed to Franklin, in Pendleton County.

In the fall of 1868 he was elected to the House of Delegates of his adopted State, and was re-elected to the same office in 1869. It was during his latter term in the Legislature that that he presented an Amendment to the State Constitution abolishing "test oaths" which rendered him at one time the best known man in the State. This noted law was known as the Flick Amendment", and will be found, together with the popular vote thereon, in the Statistical chapters of this book.

Mr. Flick was elected Prosecuting Attorney of Pendleton County in 1869, of Grant County in 1872, and again of Pendleton County in 1873-4. During the latter year he resigned the office of

Prosecutor, and removed to Martinsburg, Berkley County, where he now resides. In 1871 he was chosen Prosecuting Attorney for that County, which office he resigned in August, 1882, to accept the position of U. S. District Attorney for West Virginia, to which he had been appointed by President Arthur. In 1876 he was the Republican candidate for Judge of the Supreme Court of Appeals for West Virginia; and in 1886 and again in 1888 he was his party's candidate for a seat in the Congress of the United States. For all three of these exalted positions he was defeated; but it is a fact of history that he polled the largest vote of any other candidate of his party in all three of these elections.

Mr. Flick is known as a man of unflinching loyalty to truth, principle and right. He is conscientious, and generous to a fault. No man in West Virginia possesses greater popularity. As a lawyer, he stands at the top of his profession in the State. In the trial of a dangerous cause, he is a dangerous competitor, because he possesses a reserve force that is practically irresistible. In every official position to which he has been chosen he has discharged the duties of the same faithfully, honorably and ably.

newspaper Comment
on
The Test Oath

The Cabell County Press

July 31, 1869 - A citizen complains in a letter that Registrars will not accept. No doubt, this is opposition to the Test Oath by conscientious Republicans who do not wish to get the ill will of their neighbors.

Monday Aug. 9, 1869 -

p. 2. Col. 1 - Editorial
by the Parkersburg News
on "Test Oaths".

Aug. 16, 1869.

"John W. Church will be an independent candidate at the coming election, for County Superintendent of Schools for Cabell County, upon the platform of equal rights and the repeal of existing test oaths and the removal of disabilities."

Cabell County Press

Aug. 23, 1869.

General Butler on the Test Oath.

"General Butler has written a letter published in the Richmond, Va. ~~News~~ Journal, in which he says:

"My opinion, therefore, would be, and in that I am quite clear, that it is within the power of the Government and within the requirement of the laws of Congress, if administered in their integrity, to set aside those men who can not take the oath because of participation in the Rebellion, and that the men who did not participate and lost the votes of the electors because of their adherence to the Union, should be admitted to their seats as being the choice of the only men voting who did not prefer a traitor to the Government to a loyal man

for his representative. Congress
is the only power which can
remove the necessity of taking
the iron-clad oath.

Sept. 6, 1869

Letter from Hamline

Sept. 5, 1869.

It was signed 'A Repub-
lican, and says:

'Among all the grave issues
now before the people of West
Virginia, none is of greater
moment in the future of
this state, than that of Equal
Rights and the repeal of all
test oaths. In this connection,
I desire to address myself more
especially to Republicans. On
this question, you are now
unfortunately divided; hence,
the question arises, which fac-
tion of the party is correct?
To determine this correctly, it
becomes necessary to recur to
the principles of the party, at
its formation, which I

propose to do briefly.

At Philadelphia, in 1856, a Republican Convention of as high moral character, as any that ever convened on this continent assembled, and among other things, Resolved, "That while the Constitution of the United States contains ample provision for the protection of life, liberty, and property of every citizen, the dearest constitutional rights of the people of Kansas have been fraudulently taken from them. Test oaths of an extraordinary and entangling nature have been imposed as a condition of exercising the rights of suffrage and holding office.

This doctrine is now just as applicable to the people of West Virginia as it was then to the people of Kansas,—

Now, then, if this was sound Republican doctrine, in 1856, is it not Republican now?

Will any Republican pretend that it is not? If such is the case, he entertains sentiments contrary to the doctrine of Republicans who labored for twenty years, spent their fortunes to establish the principles of that party, and gave existence, power, and energy, to the organization. Let Republicans seriously think of the things, with an anxious desire to learn the truth and act accordingly."

Cabell County Press

Sept. 6, 1869

p. 3, Col 2

"Eds. Press: The following document shows the manner in which the liberties of our people are taken from them. Several of the parties named were notified to appear before the Board; they were not granted a trial, their names were stricken out without one title of evidence having been heard.

They registered again, and the
petty tyrants struck them from
the dash, as follows:

Cabell C. H.

Sept. 2, 1869

To John Kirby, Robert Wiley,
A. H. Simmons, Geo. W. Summers,
L. P. Smith, George W. Smith,
Wm. Black, H. V. and John G.
Chapman:

Take notice, that the
Registrar, for Grant District,
has returned his books, to this
office, and that your names
are on the books contrary to
law, and the orders of the board.
You will, therefore, take notice
that your names will be erased
without notice, or trial, as
you have once been rejected
by the Board of Registration."

No name subscribed! We
demand the names of those
in question, when and where
they met, the record of their
action, and the law under

which they acted"

(Signed) Civis.

Cabell Co. Press

Aug. 30, 1869 (And previous)

Aug. 16,

Aug. 5, 1869.

Announcements

John S. Wilkinson, Esq. of
Hamlin, Lincoln County, will
be the independent candidate
for member of the Legislature
at the coming election, on the
platform of Equal Rights, and
the repeal of all Test oaths
and restrictions from portions
of our fellow citizens

Hamlin, W. Va.

Many Citizens.

Aug. 5, 47, (Probably mistake
for 1869.)

Rev. John Lee was born in
Virginia. He was an uncle to
Robert Edward Lee's father, "Light-
horse Harry" (Henry) Lee

Rev. John Lee (See a book
called Stratford Hall - on Va.
Lees) - by the Robert E.
Lee Memorial Foundation

Rev. John Lee

m. Frances Ward

e. East of the Blue
Ridge Mts. in Va.

They came to southern Ohio,
in 1811. He performed the first
marriage, in Lawrence Co., O.,
John Ferguson and Elizabeth
McCoy.

Their children

5 daus. & one son
who, when quite young
fell into a kettle of
hot lard, and died. He
ran between his father's legs

(By Mrs. Mally Ferguson,
South Point, Ohio.
a gr. grand -

Report of County Supt
J. B. Kline (In part only)
Cavell C. H., Dec. 1869.

"The greatest difficulty we have had to contend with has been to obtain competent teachers who could take what is commonly termed the test oath for teachers; we have the material in our county for good and worthy instructors—male and female—who are shut out by the provisions of this law. A few days ago, a young man came into my office, who desired to teach a free school near Howell's Mills. I was struck with his gentlemanly conduct, pleasing manners and intelligence. He was a graduate of a Virginia College. He was in Culpeper County, the home of his parents—during the late Civil War, and although devoted to the government, he could not ~~conscientiously~~ conventionally take this oath.

When he asked if there was not some way to avoid it, I could only answer that the officers were bound to require it while it was the law, and trust to the good sense of the Legislature to repeal it at an early day. In consequence of this oath, many of our Teachers come from Ohio, where they have been refused certificates on account of incompetency, and we are bound to employ them or have but few schools in the county. I am bound to say that our Teachers are not as a general thing, an average set. I know we have excellent material for Teachers, whom we could get were it not for the operation of this ~~law~~ oath. I believe the best interests of the free school system requires the repeal of this test oath for Teachers."

Test Oath - Jno. W. Church,
Co. Supt. Schools - 1870?

"For I am fully satisfied that an extensive injury has been done in certain localities, on account of incompetent teachers, although the repeal of the Teacher's Test oath has practically removed the evil by placing the intelligent who were debarred on account of said Test oath on an equal footing with the less intelligent class of teachers, which can not obtain certificates in the State of Ohio, and under our laws are eligible to teach our schools, on the border counties of the State, and who carry all the money they receive out of the State"

(C. B. Webb was Supt. in
Wayne Co.)

Second Report
Report of State School Superin-
tendent, W. R. White

Wheeling Jan. 13, 1866.

"School buildings are few and far between. Some of the buildings called by that name are almost in ruins, others are cheerless and comfortless log structures, prisons to both teachers and pupils. In some districts this state of affairs will be changed so soon as the necessary labor and material can be procured, but, in other sections, want of means will postpone the needed improvements to an indefinite period. The erection of log houses has been discouraged, as it is believed that in the spring a large number of frame school houses can be built and painted with no advance on the present cost. --- The people are clamoring for schools and school houses. --- The outlay necessary for this purpose will be a profitable investment.

21

Our citizens are allured away
"to the West" by the "public spirit"
they witness every where. The
erection of school houses will
kindle such a spirit among
us. It will establish the affec-
tion of the people for their
own State, and invite the
intelligent immigrant who
has been reared where these
"quages of civilization - the
school houses are familiar
scenes. As far as reported, there
are one hundred and thirty-
three school houses in the
State, valued at \$40341.75.
Of these, eight are in Wheeling.
The average value of school
houses, including those in
Wheeling, is \$303; excluding
them, it is less than \$63."

He reports a large
increase in the number
of teachers compared with
the number before the war,
and more pupils.

Salary averages in
Wheeling

Males \$139 per mo
Females 42 " "

8.8 mos. in Wheeling.

In other sections salaries are

Males \$34.

Females \$22.

Terms average 2.7 months.

Recommends employment of ladies at increased salaries.

"Normal schools are developing the kind of talent which proves the entire competency of females both to instruct and to govern!"

Opposition is from two sources:

1. The apathy superinduced by long usage of a system that had no element of improvement.

2. Financial

(In the second place)

--- The wealth of a state is enlarged by a general diffusion of intelligence. The agency that elevates, refines and educates the masses, that augments the productiveness of labor, that increases the comforts and diminishes the cost of living, that reduces the

aggregat^e of crime; that gives greater security ~~of~~ property; that sustains the laws by encouraging obedience; that makes our citizens more loyal, more patriotic; that multiplies the means of wealth to the rich, and opens avenues of bettering their condition to the poor; that is an auxiliary to every branch of industry, every art, every science; that is, in its whole operations, a universal benefaction, has peculiar claims on public favor. Money is a subject of inferior importance, except so far as it seeks some channel to compound its gains and multiply its resources. The people must be educated up to that point where they shall see the great advantage of being taxed to build school houses and properly remunerate the teachers of their children.

"A rigid adherence to the policy that it is the duty as well as the interest of the State to educate ^{the} youth, will ultimately silence all opposition.

A man might as well argue that as he had no personal interest in jails, penitentiaries, and sheriffs; that as he had no children to be arrested by the one, or to undergo the discipline of the other, he should not be taxed to support them, as to offer the trite objection of having no children to educate; against his paying his share of the school revenue. He must help to build jails and school houses, to support Teachers and officers of justice. The more we have of the former, the less we will need of the latter. Especially it is the duty of the State to educate the children of the poor man. If the State needs laborers, the poor man's children supply them; if the State calls for defenders, the poor man's children become her soldiers and her heroes."

"A small portion of the population oppose the system, from notions of caste. They frown upon the system as of plebeian

tendency. They have a fear of the institution as being fatal to their pretensions. This fear is reasonable, and the sooner it is realized, the better!

School Funds

1. The Irreducible or Free School Fund Consisting of
 - a. The Literary Fund
 - b. Sale of delinquent lands
 - c. Taxes and interest on delinquent lands
2. General School Fund
 - a. Annual State Tax
 - b. Capitalizations, fines, forfeitures, and interest on the Irreducible or Free School fund
3. Township levies
 - a. By vote of the people
 - b. By B's of E.

5 grades of certificates by law. Some grant intermediate grades - $1\frac{1}{2}$, $2\frac{1}{2}$, etc.
Recommends Institutes.

Texts used

Mc Guffey's readers

Ray's arith, algebra, etc.

Pineo's Grammar.

Mitchell's Geog.

Goodrich Com. Sch. Hist.

Drackenbos - Hist. of U.S.

Pennsylvania - Spencer,

Dec. 8, 1866

"My Third Annual Report
as given above."

Dear Oath
Logan Co. Supt. Schools
Trustless not educated
Impossible to supply
their places with loyal
men, and if we could,
we have as many un-
educated

"It is impossible to
supply their places with
loyal men, and if we
could we have as
many uneducated rebels
as there are of the
loyal stock!"

Burwell Newman Co. Supt.

7 houses finished
20 building.

"We labor under
some disadvantages
which time only can
remedy. Some of the
Townships are so com-
pletely disloyal that
officers and teachers
can not be found!"

"From this fact, two of the townships did not use the money appropriated by the State. Some of the townships preferred to build their houses and not lay a levy. This will account for the small building levy in my report."

"The enumeration should include soldiers who are entitled to tuition"

Sept. 6, 1866

Wm. Algeo —

Second Report

Wm. Algeo Supt.

No definite report. We are all beginners.

In Greenbrier Co.
Co - Supt. Trueblood reports
(Dec. 1866)

n. 23

"In view of the scarcity of teachers, I would ask you if you cannot waive the 'Test Oath'"

On this account - if for
no other reason we can have
but few schools, ~~for~~ "at least
for a year or two?"

"In my township, we have
a teacher, the best in the
county, an emigrant from
Massachusetts, who was a
Confederate conscript, and
in order to evade duty
in the field obtained a
commission as surgeon in
the army, though I believe
he is and always has
been as truly devoted to
the Union as our Governor,
but he cannot take
the officer's oath".

continue.

The Test Oath.

After the opening of the Civil War, a "Convention of the People of Virginia, met in Wheeling, Thursday, June 16, 1861, and made a "Declaration", and passed an "Ordinance for the Reorganization of the State Government," as well as a number of other ordinances considered necessary to protect this section of the State of Virginia against the rising power of Rebel Virginia.

The Governor was on July 26, 1861, was authorized to require state officers to take an oath or affirmation to support the Constitution of the United States, and of the Restored Government of the United States.

State of Virginia, and failing to do so, the Governor was authorized to declare said office or offices vacant.

Feb. 10, 1862, (Chapter 70, p 46)

An act was passed requiring all officers and certain others, who might wish to practice any profession, or conduct any business or calling for which a license "is now required by existing laws, to take a prescribed oath, and file the same "in the proper office as hereinafter provided for", etc., otherwise to refuse such license.

Attorneys living in the State were not permitted to practice their profession, in any county of the State, unless he had previously taken this oath, failing in which, he would be subject to certain fines and penalties mentioned in the tenth section of Chapter thirty-eight of the Code of 1860.

Ministers of the Gospel were also required to take such an oath. Those who would not be licensed.

to solemnize the rights of matrimony
Physicians, surgeons or dentists
also came under the act under pen-
alty of fines of not more ~~th~~ less
than ten nor more than five
hundred dollars, but such marriage
should not be void. The penalty
in this case was 20 to \$100.

Physicians ^{etc} resident in other
States were only required to
take the oath to support the
Const. of the U. S.

In short, any officer of
the state even to toll collector
or notary public were required
to take the oath, also jurymen
etc. Fines of \$20 to \$1000 were
imposed on any one taking
any such oath, (or 12 mos.
in jail), "with a view to
affecting his or her release",
who, at any time thereafter
violates said oath.

May 15, 1862 (Chap. 17 p. 14)
before any person ^{or persons}, their agents
or attorneys could sue out
out any civil process, in any

of the courts of record in this state, or before any justice of the peace, such person or persons shall first take or subscribe the oath presented by the Convention which assembled in Wheeling, on the eleventh day of June, eighteen hundred and sixty-one."

to support the Constitution of the United States and the reorganized government of Virginia, and file the same in the clerk's office of the county court, or before a justice, if bringing suit, else, before said justice, when we must file the same in the clerk's office of the county.

After the formation of the State the provisions relating to oaths were very much simplified. Those required to take oaths simply swore to take oath that he would support the Constitution of the United States, and of this state

and faithfully perform the duties of his office, etc.

Voters' Test Oath

The Legislature meeting in Jan. 1865, under date of Feb. 25, 1865, passed what was known as the voters' test oath. This required that before any citizen should be permitted to vote, he must take an oath that he had "never voluntarily borne arms against the United States, the Reorganized Government of Virginia, or the State of West Virginia." That he had never voluntarily given aid, comfort, or assistance to persons engaged in armed hostility against the United States, etc., and that he had "never sought, exercised or attempted to exercise, any office or appointment whatever, under any authority, or pretended authority, hostile or inimical to the United States," etc., and to support the Constitution of the United States and of the State etc. Proper penalties were prescribed.

(Note - Acts of 1865, p. 15, suits transferred from Logan, Wayne, or Boone Counties to Cabell Co.)

(Note - Same p. 5, relating to John B. Baumgardner.)
Also see p. 78 Acts of 1866)

Suitors' Test Oath

Chapter 29 p. 21, Acts of 1865; defendants of suits or judgments are given, may petition for a rehearing, within five years after such judgment is rendered provided he takes an oath similar to the voters test oath - that he never voluntarily bore arms, gave aid and comfort, etc. against the United States or the State of West Virginia

Attorney's Test Oath.

By Act of Feb. 14, 1866, before any attorney could practice law in any court, or before any justice or board of supervisors, he must take an oath, that he had not, since the 20th Dec 1865

This page is a continuation from last page on "Test Oath" eighteen hundred and sixty-three, that he had not borne arms against the United States, etc. (Similar to others)

Teachers' Test Oath

March 2, 1868, the Legislature passed a special act for the "relief of J. B. Solomon" of Taylor County, in which he was permitted to teach school without taking the oath required by the act passed November 16th, 1863, concerning oaths, etc. This act shows clearly that teachers were required to take the Test oath by reason of the fact that they were regarded as school officers.

Chapter 98, passed Feb 27, 1867, specifically requires Teachers to take the "oaths required of all officers of this State"

Test oath

which shows clearly that teachers were to take a Test oath, notwithstanding no such oath was definitely prescribed.

William Ageo, in one of his reports (For) mentions the Teachers' test oath (See p. 122 Acts of 1867 - Section 32)

Test Oath continued

The Attorney's Test Oath is recorded (& was passed), in Chapter 30, Acts of 1866 (p. 19 of same) and is typical of all such test oaths. It is as follows:

See p. 19. The date was Feb. 14, 1866

Special acts of the Legislature were frequently passed exempting persons from taking this oath. Among those exempted were Homer A. Holt, of ^{Brazelton} father (?) of Judge John H. Holt of Cabell County. Mr. Holt was authorized on 1866, to practice law without taking this oath.

Teachers were exempted from it, as required by Chapter 98, Acts of 1867. This did not quote the test oath specifically, but required teachers to take, "before entering on his duties

take the oaths required of all officers of this state", said oath to be taken before the County Superintendent of Schools, and filed with the Secretary of the Board of Education of the Township.

The Voters Test Oath is quoted in full in Chapter 78, Acts of 1866, and was passed Feb. 26, 1866. The Registrar was required to demand that prospective voters take this oath, "if he has any doubt as to such person's loyalty."

The same oath was required of Election Officers (Ch. 128¹²³ 123¹²³).

(Note - Jerome Shellon, about 1870? of Lincoln Co., was elected prosecuting attorney, and was excused from taking the Test Oath.)

The correct date was

It will be noted that as early as 1861, the Legislature required a special oath to be taken by practically every person ~~to~~ elected or appointed to any State office from the lowest to the highest office in the state, to take an oath "specified in the ordinance for the restoration of the State government, this oath being required to be filed with the Secretary of the Commonwealth. The Governor was authorized to issue his proclamation, requiring such oath of officers "in state service", and the proclamation was to be published in some Wheeling newspaper, "and in the said county or judicial district", if there be any such newspaper there, "and be posted at the front door of the court house of the county, or of the several counties of such judicial district".

Attorney's Test Oath Repealed

Feb. 7, 1870, the Legislature, (Chapter 15) practically repealed the attorney's Test Oath. In a preamble to this act, it was stated that whereas, among other measures for the protection and safety of the loyal people of this state, the legislature, on the fourteenth of February, eighteen hundred and sixty-six, wisely and justly passed an act, entitled "An act in relation to the oaths of attorneys-at-law," the provisions of which act have been incorporated into section three, chapter one hundred and nineteen of the code of West Virginia; and whereas, from frequent evasions of the law, and from a change of circumstances since the passage thereof, the same has become, in a great measure, inoperative and of little use; therefore, the said act was amended and

re-enacted so as to read as follows; etc.

Every attorney at-law, shall before each court, in which he proposes to practice, take the following oath—

If he be a resident of the State, an oath to support the Constitution of the U.S., and of the State of W. Va., to honestly demean himself, and to the best of his ability execute his office of atty-at-law, etc.

Non resident attorneys simply took the oath to support the Const. of the U.S. and to honestly demean himself, etc.

Chap. 33, 1870, The Sutors Test oath was entirely repealed
Chap 14, - Teachers test oath amended to extent of about as attorneys.

By 1871, owing to The Flick Amendment, all such restrictions

FLICK AND HIS AMENDMENT.

By Jake Fisher.

The paucity of recorded history of the incidents which led up ^{to} the disenfranchisement ^{of} large numbers of our citizens shortly ^{after the} admission of the State into the Union, and their later restoration to their common heritage, makes it necessary at this late ~~xxx~~ day to resort largely to tradition for the details of the events which culminated in the Flick Amendment--the instrument of liberation.

Few of us who were privileged to be associated with Mr. Flick, the universally accredited author of the measures which rehabilitated the decitizenized, are now left to make any kind of contribution to the historical values of the great incident. From men less modest than Mr. Flick, much more of an informative nature would have been expected; but, he was a most unwilling witness to his personal achievements; and, as a consequence, we are left largely to impressions gained from inquiry when the subject was pressed on him. It is a distinct misfortune that Judge D.C. Westenhaver or the very distinguished Newton D. Baker, who both drew heavily from Flick's bountiful supply of mental force and personality, permitted the clocks to run off with their time without giving us in writing their appraisals of this, and other important events of his full and useful life.

W. H. H. Flick, the author, bore the name of the first President Harrison. The fact has significance as evidence of his early environment. He was born and reared to young manhood in the State of Ohio, not far from the present city of Cleveland. He was an active adherent to the cause of the Union, and a Lincoln Republican to the day of his death. In fact, he vol-

unteered as a soldier in the Federal Army in the summer of 1861; was wounded in the shoulder in the Battle of Shiloh, and was forced to take an honorable discharge something more than ^a year later because his wound had disarmed him. He returned to his home in Ohio and taught school to his community, and law to himself until the fall of 1865, when he was graduated from his school of law and admitted by the Courts to practice his profession of law.

As I knew him, he was a man who stood erect at about five feet and eight inches, and had a circumference sufficient, with in the compass of that height, to support a normal weight of a ~~xx~~ little more than four hundred pounds. His high sense of justice and sympathy for the common man was fashioned after the best traditions of Lincoln; his sense of law found its basis in Blackstone's Commentaries. He expressed a preference for St. George ^{ue} Teaker's edition of that work because of the copious notes of that author showing its adaptation to the requirements of the early Virginia people; and, more particularly to the Courts and their practice and procedure; for all of which he had a profound admiration.

As a lawyer and advocate he was as much the product of self-cultivated nature as was Judge Ferguson, his renowned contemporary across the mountain; and, measured by intellect and the gentle arts of strategy, was easily of the Judge's class. I venture this comparison not alone because I believe that Ferguson and Flick were the predominating characters of their generation of lawyers; but, I believe, in any cause of high public concern, they were, when in combination, an almost irresistible force.

Mr. Flick told me that it was his preference for the common law courts of the Virginias that determined him to seek a residence here to practice his profession. He came first, to the City of Wheeling, but decided to extend his visit to the South Branch of the Potomac. he had on a previous occasion, angled in its prolific waters, and was a devoted expert in the art of fishing. Here he tarried until the South Branch fascinated, and finally claimed him.

In his suit of blue, in the early part of 1866, about twenty-five years of age at the time, he took up his residence at Moorefield, where, as most elsewhere on the Branch, the color was predominantly gray; and, where there had probably been no scramble among the majority of the citizenry to either get back into the Union, or to join up with the new state. However, Grant County was in a formative condition; and in its mountains, as well as in parts of Pendleton, there were several sympathizers with the blue. I once asked him why he had chanced his fortunes with rebel Democrats who had little beyond hospitality and modest comfort to offer a lawyer. The essence of his reply was that these were the elements of life in its magnificence, and that he knew of no place where you could find them more pleasant and abundant than among the people of the South Branch. His appreciation of the human values of his neighbors there was so generally reciprocated by them that in an almost incredibly short time he assumed a leadership among them that had no limitations of party creed, or sect, whether of the North or of the South. He measured them and they measured him by such values. The following year he moved his residence to Franklin, the County seat of

Pendleton County, but continued his activities throughout, and beyond the B ranch.

The year of 1866, the year of his arrival, has an important place in the history of the administration of the early government of the new state. It was in that year that the important Amendment to the Constitution was adopted decitizenizing those people of the State who had given aid or assistance to the rebellion against the United States; referring, of course, to the late Civil War. And it was, also, in that year that the Legislature enacted a statute that required all attorneys-at-law to take a test oath; and barred those from practice who were unable to do so. The important section of the Constitution and the disqualifying Attorney's Act, will speak for themselves. The original section of the Constitution) Section one of Article three) appears in the first sentence quoted below, and the Decitizenship Amendment referred to is the second (underscored) sentence, as follows:

"1. The white male citizens of the County shall be entitled to vote at all elections held within the election districts in which they respectively reside; but no person who is a minor, or of unsound mind, or a pauper, or who is under conviction of treason, or felony, or bribery in an election, or who has not been a resident of the State for one year, and of the County in which he offers to vote for thirty days, next preceding such offer, shall be permitted to vote while such disability continues. No person who since the first day of ~~June~~, one thousand eight hundred and sixty-one, has given, or shall give voluntary aid or assistance to the rebellion against the United States, shall be a

citizen of this State, or be allowed to vote at any election therein, unless he has volunteered into the military or naval service of the United States, and has been, or shall be, honorably discharged therefrom." (Acts of 1866, Resolution No.123, page 135.)

The attorney's oath was as follows:

"3. No attorney-at-law shall be allowed to practice in any court, or before any justice or board of supervisors, of this state, after the passage of this Act, until, he shall take, in the court in which he proposes to practice, in addition to the oaths now required by law, the following oath: I, (A.B.,) do solemnly swear that I have not since the twentieth day of June, eighteen hundred and sixty-three borne arms against the United States, nor against the State of West Virginia; that I have voluntarily given no aid nor comfort to persons engaged in armed hostility thereto by countenancing, counselling, or encouraging them in the same; that I have not sought, accepted, or attempted to exercise the functions of any office whatever under any authority in hostility to the United States or the State of West Virginia; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile, or inimical thereto; and that I take this obligation freely, without any mental reservation or purpose of evasion." (Passed February 14, 1866, Chapter 30.)

Nothing by way of interpretation need be added to these records. They speak for themselves quite understandably. Undoubtedly the quoted measures had effect on a large and respectable portion of the population, and, quite likely, it was not remarkable that even with/in a period so short as four or five years there was a general ripening for their reconsideration. Besides, the fourteenth amendment to the Federal Constitution was in process of adoption when it was finally ratified; and the State Legislature had been frequently in session doing nothing about it.

In that situation Mr. Flick was elected to the House of Delegates to represent his chosen County of Pendleton and the adjoining new County of Grant formed into a delegate district. He was first elected to serve for the year 1869, and later for the following year.

At the appointed time he went forth from his favorite retreat to measure strength with those experts in state/craft across the mountain who had done violence to his sense of justice, as well as unpardonable and almost uncomparable injury to many of his neighbors and associates.

His arrival on the scene of action may have been prophetic; for that delightful South Branch, as areas go, has since made contributions to its state out of all proportion to its size. It has contributed three great Governors: Cornwell, Jacobs, and Kump, a famous attorney general, Colonel Robert Whitte, many great lawyers such as Flournoy and Price, and many other worthy personages in all walks of life whose achievements are, alike, worthy of notice. It has shown the persistency of its affections to its tried and trusted officials by keeping in office

a splendid old Judge, Robert Daily, for a longer period than any other Circuit Judge has, as yet, served in the state. There is something in that Branch which quickens and invigorates its manhood; and Flick had absorbed it in a quantity commensurate to his size.

I have it from Mr. Flick that early after his arrival at the seat of Government he sought and obtained the acquaintance and counsel of Mr. Ferguson. Ferguson had opposed secession with the vigor of his great personality; Flick had fought secessionists as long as he had power to carry a gun. Flick was a vibrant Ohio Republican; Ferguson had a pardonable, if at times, less noisy, affection for the old Virginia Democrats, with many of whom he had so long and so ably served in making and remodeling their constitutions and laws.. Both men had an admiration bordering on reverence for the legal profession which they brilliantly adorned: and, the removal of the shackles from their professional brethren, many of them magnificent specimens of the fraternity, was, naturally enough an object of their mutual great concern. Both men were universally respected for their high sense of justice, and for their great qualities of leadership in the pursuit of its ends.

There can be no doubt that these two giants planned the strategy which resulted in the adoption of the Flick Amendment restoring citizenship on terms of equality to all of the decitizenized people of the state; and bestowing like citizenship on all the peoples of color who had theretofore been treated by their supposed benefactors with something akin to indifference. Nor is there reason for question that they planned together the statute of liberty for their disabled brethren of the bar.

The statute discarding the Attorney's Test oath was passed by the Legislature on the seventh day of February, 1870, preceding the passage of the resolution embodying the Flick Amendment by three weeks, and they are quoted below, in the order of their occurrence:

"3. Every attorney at law shall before each court in which he proposes to practice, take the following oath, that is to say: If he be a resident of the state, an oath to support the Constitution of the United States and the Constitution of the State of West Virginia, and honestly demean himself in the practice of the law, and to the best of his ability execute his office of attorney-at-law; and if he be not a resident of this state, an oath to support the Constitution of the United States, and to honestly demean himself in the practice of the law; and to the best of his ability execute his office of attorney-at-law." (Section 3, Chap. 119) ^{is}
~~The Flick Amendment~~ embodied in his resolution adopted by the Legislature on the twenty-eighth day of February, eighteen hundred and seventy, and the Amendment is the part underscored:

"No. 32. Joint Resolution proposing an Amendment to the constitution of the state.

"Resolved by the Legislature of West Virginia:

"The following is proposed as an amendment to the constitution of this State, to be substituted for Section One, of the Article Three, thereof, and become part of the said constitution, when ratified according to the provisions thereof, namely:

"The male citizens of the state shall be entitled to vote at all elections held within the election districts in which they respectively reside; but no person who is a minor, or of unsound mind, or a pauper, or who is under conviction of treason, felony, or bribery in an election, or who has not been a resident of the state for one year, and of the County in which he offers to vote for thirty days next preceding such offer, shall be permitted to vote while such disability continues."

The amendment was adopted into the constitution by joint resolution agreed to on January twenty-seventh, eighteen hundred and seventy-one. And thereby, the discriminations against some of the whites were eliminated; and the blessings of liberty extended to all those of color, to the end, so far as paper title is concerned, that all people with/in our state, whether white or black, Union or Confederate, were endowed with equal privileges of citizenship, although some of the enjoyments thereof were to be separately indulged to accomodate characteristics due to dissimilarity of color.

We are not able to correctly measure the influence of environment nor to calculate with any certainty, the sense of justice of forces which direct the conduct of our fellow men; but in the case of Mr. Flick, I believe I can safely venture the opinion that both environment and a high sense of justice combined to move him to take measures for the liberation of those whom he thought had been suffering subjects of misadventure, at least.

I am able to recall some of the arguments ^{he} as told me he had used to justify his position, two of which are worthy of mention.

The first was that the State had been admitted into the Union as a consequence of its proposed constitution which, as practice dictated, had to have the approval of the Congress. When the approval was sought, the Congress refused its assent until an Amendment concerning the colored population had been made, and referred the instrument back to the State requiring the Amendment as a condition to the State's admission. (Section Seven, Article 11). The amendment was accordingly made, and the Act of admission was completed. The approved instrument became the first constitution of the state. In the opinion of Mr. Flick, that approved constitution had the force of a compact between the Federal Government, and that of the State--a sort of condition precedent to sovereignty. According to the compact, there were no distinctions between the white citizens of the state, resident therein at the time, in respect to their equal claim to the privileges of citizenship. And the constitution must have been generally so regarded as to all such persons; otherwise, there was no occasion, or excuse for the decitizenizing amendment, in the first place.

Mr. Flick therefore, maintained that it was not only a matter of justice, but of good faith, as well, to respect and make secure the rights of all the people to the common heritage, as it had previously existed; wherefore, he regarded the measures taken as violative of both justice and good faith. And, as an interesting addition, his sympathies for people of color afforded him good reason for removing the interfering obstructions.

The second argument I mention had to do with the fourteenth amendment to the Federal Constitution. The incident of that amendment begins, again, with the historic year 1866. It was submitted to the ~~State Legislatures~~ on the 16th of June, and its ratification was assented to by the Legislature of the State on the 16th of January following. Section one, of that amendment made all persons born, or naturalized in the United States and subject to the jurisdiction thereof, citizens of the United States, and of the state wherein they reside; and prohibited the states from either making, or enforcing any law which would abridge the privileges or immunities of citizens of the United States.

It was the view of Mr. Flick that the state government should have, coincidentally with its assent to the amendment, taken proper measures to bring itself into harmony with its spirit, at least; and, that there was neither excuse nor pardonable apology for delaying, as it had, the repeal of the offending measures.

Naturally enough, Mr. Flick had a further political career. He served as Prosecuting Attorney for both Counties of Pendleton and Grant, and was so serving in 1874, when he located in Martinsburg. In 1876, he was the nominee of his party for Judge of the Supreme Court of Appeals and was favored by the votes of many beneficiaries of his accomplishments: but, with his party, lost the election. In 1880, he was elected Prosecuting Attorney of his new County of Berkley, but resigned, after serving about half his term to accept the position of United States District Attorney, for the State of West Virginia, which office he filled with outstanding distinction. He was the life time friend of the late Judge

John J. Jackson, who presided over the Court at the time of his service.

Mr. Flick was twice his party's candidate for Congress in the Second District. One time he was defeated by a narrow majority; the other time, most likely, unsuccessfully elected by a like majority. That want of success was attributable to a slight questionable miscalculation said to have been detected in casting up the vote in a remote precinct. The change gave his great friend and rival, the distinguished William L. Wilson, a very slight lead. Mr. Flick was happy to "confess the error" because as he said, Mr. Wilson in the office, would reflect great credit on his state as one of the greatest leaders of his party; while he himself could expect no more than the salary of an obstructionist. Incidentally, Mr. Flick was in no necessity for the salary, and his massive strength was all attuned to aggressiveness.

It is an interesting coincidence that both Secretary Baker and Judge Westenhaver took friendly leave of Mr. Flick's firm and located in Cleveland, the city nearest to Mr. Flick's place of nativity, and that they both won fame and final repose in that city, while Mr. Flick remained in the town of their nativity to enjoy his old, mutual friends, and new ones as they came, until about the turn of the century, when he used about twenty minutes of his usually busy time to pass on. He died as a result of apoplexy.