

We have been called upon by the friends of Judge THOS. C. GREEN to set forth some of the reasons in favor of his re-election as JUDGE of the COURT OF APPEALS, of West Virginia.

The principle of "rotation in office" however proper in other departments of popular government, has never been recognized as applicable to the judiciary. It is justly considered that *experience* not less than learning and capacity, is needed to make the able and efficient judge, and that stability is one of the prime objects to be sought in the constitution of our highest courts.

Moreover the complete devotion to the duties of his position demanded of the able and upright judge, so thoroughly isolates him, in mature life, from all other sources of support, that it is but fair to him that he be not dismissed without good and compelling cause.

We have heard no reasons assigned for a failure to re-elect Judge Green, and should not deem it necessary to say a word in his advocacy, but for the canvass which has been made in some parts of the state in the interest of other parties,

It is hardly necessary to say that Judge Green is in thorough sympathy with the people of our State. His ancestors were Virginians; he was born and educated in Virginia, and his whole professional life has been spent in the limits of what is now the State of West Virginia.

He has ever been, as might naturally be expected, a states-rights man; ready to oppose encroachment on the rights of his State even when opposition involved great personal sacrifices. Believing that his State was being oppressed he took up arms in her defense and served faithfully as a private in the 2d, Va. Infantry Regiment, following Stonewall Jackson in his splendid campaigns.

Judge Green has never been a politician, having filled no political office except a single term in the Virginia Legislature.

That he has been a most industrious worker on the Bench, the West Va. Reports afford amplest proof. But these Reports can show nothing of the labor necessarily bestowed on the examination of manuscript records, in granting and refusing appeals, and the labors of a Judge of the Court of

Appeals, in this respect are but little understood or appreciated. The Reports however do show the labor bestowed in the writing of the opinions of the Court, which is the most onerous duty a Judge has to perform.

The reports of the several States show, that the average work of a Judge in one year, is the preparation of from sixteen to eighteen opinions. Thus in West Virginia in the thirteen years prior to the reorganization of the Court of Appeals in 1876, there had been an average of about sixteen opinions a year by each Judge.

An examination of Grattan's Reports for the last ten years will show, that the number of opinions in the Virginia Court, will not average more than eighteen for each Judge a year.

Judge Green has prepared one hundred and twelve opinions in four years, an average of twenty-eight per year, and greater by fifty per cent than the average work of an appellate Judge.

Our reports too, show that in the preparation of these opinions he has bestowed much more than the usual amount of labor.

His opinions have been very often commented on by the leading Law Journals of the country; we cannot here refer to many commendations, but will cite one remarkable instance which we regard as especially complimentary. In the numbers of the Albany Law Journal for September 27th and October 4th, 1879, there is a long review of the opinion Judge Green delivered in the case of Radford et al vs. Carwile et al, 13 West Va., and the views of Judge Green though criticising the decisions of the New York Courts on the rights of married women, are approved by the editor; for the evil effects of those decisions, are so clearly shown in the opinion of Judge Green, that the leading Law Journal of New York, is forced to unite in deprecating the decisions of its own State, on this important subject. In the case of the State of West Virginia vs. Strauder 11 West Va., the true meaning and scope of the 13th and 14th amendments of the constitution of the United States came under review. Judge Green delivered the opinion of the Court, and those provisions were construed, as any other part of the constitution conferring powers on the General Government should be construed, that is, strictly, and so construed the court held that the State had the right, to constitute her juries if she thought proper of the white citizens of the State.

This decision was reversed by the Supreme Court of the United States, but the views of Judge Green were approved by the only two States-right Judges on that bench. Judge Field in his dissenting opinion points out so clearly the evil consequences which must result from the latitudinarian

construction placed on the constitution by the majority of that court, that no one who desires the preservation of our republican institutions, can fail to see the importance of keeping on the bench men whose views on these important questions are known to be sound and patriotic.

So great was the importance attached to Judge Field's opinion, that it had hardly been delivered, before he was favorably spoken of by many States-right men and democratic journals, as the candidate of the party for President. We feel assured that the States-right men of West Virginia and the Democratic Conservative party of the State, heartily approve the views expressed by Judge Green in the Strauder case, and the views of Judge Field in his dissenting opinion in the Supreme Court of the United States, and that they will not fail to show their appreciation and give their hearty endorsement by the re-election of Judge Green; it is true the Federal Press of this State, has denounced these sound views of Judge Green, and has made war on him, because he declines to adopt the modern modes of escaping from the restraints of the constitution, and thus aiding in destroying our republican form of Government, but as no portion of the press as far as we are informed has ever found any other fault with him as a Judge, the failure of the people to re-elect him, could not be understood elsewhere, than as a condemnation of his States-right views, as expressed in the Strauder case, which same views were so ably defended by Judge Field in the Supreme Court of the United States.

It is impossible in this statement to notice the many important cases in which Judge Green has delivered the opinion of the Court. But the character and importance of them may be estimated by the unusually large number republished in the American Reports; this is a publication in New York of opinions of various State Judges, of Appellate Courts, which are considered of general importance and interest to the profession. There is on an average, one opinion a year, of each Judge of a Court of Appeals, in the Southern States, thus selected and published. The size of the publication will not admit generally of more than this. Yet this publication, though extending over but two of the years in which Judge Green has been on the bench, has republished *ten* of his opinions, or as many as the average number of five Judges. In what has been said of Judge Green, with reference to his industry, thoroughness and legal attainments, we would not be understood as implying that like commendation is not due to the other members of the Court; we only refer to him, because he is now before the people of the State for re-election.

The Court as now organized has decided nearly twice as many cases on an average, as was decided by the Court of Appeals, in the same length of time before its present organization, and there are now more of the opinions of our Court of Appeals, reported in the American Reports in two years, than were published in six years preceding the present organization of the Court.

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