

Windsboro Nov. 18th 1878-

My dear Sir:

In regard to the men Thom and Embery—
my distinct recollection is that there was no evidence
of any connection between them and any secret
organization whatever. I conducted the preliminary
examination at which—after being duly questioned
they freely admitted their guilt and made a state-
ment which fully convinced me they were not act-
ing at the behest of any secret organization but had
organized a riot upon their own responsibility. At a
time when the crime of which they were technically
guilty—to wit, going in disguise and committing an
assault while in disguise—was not very frequent
I would have very cheerfully acceded to their re-
quest that the judgment should be suspended
upon the payment of the costs. The actual of-
fense was very trivial. The character and frequency
demanded imperatively, in my opinion its punishment.

As you are aware, I gave the very lightest sentence which the statute permitted and stated at the time that after a year or so I would cheerfully give my influence toward their release - As you are also aware, I have heretofore made several efforts in this direction without success - The Governor, having the equity of the criminal law in his hands has hitherto refused even to consider the circumstances of the case - so that all mitigation of the rigor of the law has been denied them. -

There was at the time, and has since been, some remark made upon my refusal to allow the plea of guilty to be withdrawn. - As you know, I had no knowledge or intimation that it would be entered until it was

done in open Court. - After that I refused to allow it to be withdrawn for two reasons -

1 - I was then, and the more I consider it, am still further satisfied, that I had no right to permit it. - It is a principle of all law that an admission cannot be withdrawn. In no case can a man be permitted to enter a plea inconsistent with a former one in the same case. Everything that is pleaded either in civil or criminal cases, must be deemed as true so far as the pleader is concerned and he cannot be heard to traverse it. - I am told that this practice has not been unusual in this state. Under the practice, which permitted that infamous anomaly, known as an "admission", - which seems to have been invented to furnish a loop-hole of escape for influential knaves - which neither admitted nor traversed the allegations of the bill, but

only a consent of the criminal that he might be punished if the court would only not inquire as to his guilt—under a practice which permitted this—I cannot be surprised that the criminal should be allowed to withdraw what was neither an admission nor a denial of the indictment—Indeed I see no reason why he should not do so—It was his own fault—in the box—now you see it and now you don't see it—and he ought to be permitted to do what he pleases with it—As you well know—such an entry cannot be made in a court where I have the honor to preside—“Guilty” or “Not guilty” are the only pleas—and when a defendant admits his guilt thus formally, he cannot afterwards be heard to deny it—

2 - As I said, I had committed these men and had myself certified their confessions in due form - It would have been infinitely absurd for me to have sat and listened to their denial and have permitted the withdrawal of the plea in order simply that justice might be trifled with -

The circumstances are now quite changed - The crime, - outrages in disguise, - almost unknown - and their punishment as a public example is no longer required - I certainly hope, therefore, that your efforts for their release will prove successful -

I am, very respectfully,

Your obt. Servt

To Hon. James R. Bullen }
High Point }
Wlea }

A. W. Sawyer
Judge 7th Dist -

To the Honorable
The House of Representatives
of North Carolina —

Your Petitioner respectfully represents
to your Honorable body, that heretofore to wit.
^{First day}
on the ~~third~~ of March 1873 a Resolution was
introduced into your honorable body pro-
viding for an inquiry into the official
conduct of your Petitioner as Judge of
the ~~Month~~ for Superior Court for the ten-
month judicial district — That the said Res-
olution was so far sanctioned and endorsed
by your body as to be placed upon your
calendar for further consideration —
That soon thereafter your honorable body
adjourned — and your Petitioner is in —

5.17 x 13.16

$$\begin{array}{r} 125 \\ 17 \\ \hline 142 \\ 125 \\ 142 - \end{array}$$

60 60

$$\begin{array}{r} 325 \\ 16 \\ \hline 341 \\ 68 \\ 50 \\ \hline 142 \\ 682 \\ 1364 \\ 341 \\ \hline 48422 \end{array}$$

60 60

$$\begin{array}{r} 100 \\ 325 \\ 16 \\ \hline 341 \\ 142 \\ \hline 682 \\ 1364 \\ 341 \\ \hline 48422 \end{array}$$

7.10

$$\begin{array}{r} 175 \\ 185 \\ \hline 275 \\ 278 \\ \hline 185 \\ \hline 1390 \\ 2224 \\ 278 \\ \hline 514.30 \end{array}$$

5. 23

- 98

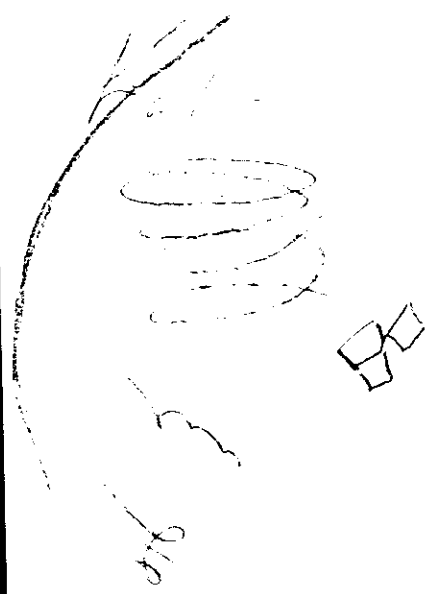
CHAETAUQUA COUNTY NY HISTORICAL SOCIETY 2013

325-

$$\begin{array}{r} 142 \\ 125 \\ \hline 267 \\ 212 \\ \hline 479 \\ 304 \\ \hline 783 \end{array}$$

formed and believes that no further action
has been taken in regard to the same -

Your Petitioner insists that, his official
character having been impugned by said
resolution and its imputations having
been in a manner endorsed by the
action of your body, - it is due to the
position which he holds - to public justice
and to him personally, - that the investi-
gation which said Resolution purported
to set on foot should be proceeded
with - For your petitioner respectfully
submits that your honorable body has
no right to make your journals, ^{the}
medium for a baseless assault upon



5-00	1	27	125-
5-00	2	28	125-
5-00	3	29	125-
5-00	4	30	125-
5-00	5	31	125-
4-00	6	32	125-
5-00	7	43	125-
2 25-	8	43	125-
2 25-	9	43	879-
2 25-	10	43	5-00
2 25-	11	43	100
1 5-0	12	50	10 50
2 25-	13	50	40-
2 5-0	14	50	420
1 50	15	65	50
2 00	16	66	95-
2 00	17	67	950
2 00	18	67	995-
2 00	19	73	2995-
1 25-	20	94	64
95-	21	95-	54
150-	22	95-	60
135-	23	96	
125-	24	96	
125-	25	96	
125-	26	96	
9025-		36	
875-		22	
2975-		643240	
18995-			
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the official character of a judicial
officer, nor the means whereby any
citizen — even the humblest — may be
oppressed and defamed, without
opportunity for vindication or redress.

Your petitioner therefore prays,
that, for the reasons above set forth, if
for none other — the inquiry into his of-
ficial conduct as Judge aforesaid,
contemplated by the terms of said Reso-
lution may ^{be proceeded with without} ~~be proceeded with~~ further
unnecessary, and oppressive delay —

And your Petitioner will ever pray
A. W. Tourgen

Petition to the
House of Represen-
tatives —

Dec. 23^d - 1878

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