

HOUSE No. 91.

Commonwealth of Massachusetts.

HOUSE OF REPRESENTATIVES, February 20, 1877.

The Joint Special Committee on the revision of the Judicial System, to whom was referred the Order relative to justices of courts holding the office of mayor,

REPORT :

The only case presented to the Committee, is that of Mr. Borden, who at the present time is mayor of the city of New Bedford and judge of the district court which holds its sessions in that city. As mayor, he is at the head of the police force; as judge, he may sit in judgment upon their actions and testimony. *

In the opinion of the Committee, this involves a manifest impropriety; but there have been no complaints, and the Committee do not find that Mr. Borden has been guilty of any injustice or impropriety in his conduct in either of the two offices, except the general impropriety of occupying them both at the same time.

The Committee are aware of but one other case where the same person has been judge of a regularly constituted court, and also mayor of a city; and, in that case, the city of which he was mayor was not within the jurisdiction of the court over which he presided as judge. In cases of that nature, the impropriety is less flagrant, but nevertheless exists. The high regard which the inhabitants of this Commonwealth

entertain for their judiciary will not be increased by such a commingling of political and judicial functions.

The justices of the supreme judicial court can hold no other office, except that of justice of the peace through the State (see Const., Chap. VI., Art. II.) ; but the Committee are not aware of any provision of the constitution or laws of this Commonwealth which forbids or disqualifies any judge of a district, police or municipal court, from acting as mayor of a city.

If, it is desirable to forbid by law such occurrences, an amendment to the constitution, similar to Art. VIII. of the existing amendments, would be the most appropriate form of legislation ; but, in the judgment of the Committee, the evil is not of sufficient magnitude and frequency to require any legislation at the present time ; and they therefore respectfully report, that it is inexpedient to legislate thereon.

For the Committee,

LEVI C. WADE.