

The Speaker laid before the House the following communication from Hon. R. H. Alvey, of the Court of Appeals :

Annapolis, Feb. 10th, 1876.

To the Honorable,

*The General Assembly of Maryland:*

Gentlemen :—As you are aware, by the existing law, Act 1872, chap. 377, the Judges of the Circuit Courts of the State, are required to appoint the County School Commissioners for the several counties, and this requirement, so far as I am informed has been observed without objection by the Judges. This power of appointment, however, is not a judicial function, nor does it in any manner pertain to the judicial office, but rather belongs properly to the Executive Branch of the Government. I venture to suggest, therefore, that by imposing such duty upon the Judges, some of the wisest and most fundamental provisions of the Constitution have been overlooked by your predecessors.

By Article 8 of the Declaration of Rights, it is declared, "That the legislative, executive and judicial powers of government ought to be forever separate and distinct from each other; and no person exercising the functions of one of said departments, shall assume or discharge the duties of any other." And again, in Article 33 of the same instrument, it is declared that "no Judge shall hold any other office, civil or military, or political trust, or employment of any kind whatsoever, under the Constitution or Laws of this State."

These are very plain words, about which there can be no misunderstanding; and it certainly requires no argument to prove that the holding and exercising the power of appointment of the School Commissioners, under our State system, is a political trust of a most delicate and important character; and being such, of course, it should not be reposed in the Judges, who are forbidden to exercise it.

Indeed, apart from this constitutional prohibition, there are many other considerations which render it altogether improper that the Courts should hold such power, or be in any manner involved with its exercise. From the very nature of the judicial office, the exercise of other functions than those properly pertaining to it, especially of a political nature, cannot be otherwise than prejudicial. Moreover, serious questions may arise in reference to the appointment of these Commissioners, which would not only be exceedingly embarrassing to the Courts making the appointments, but might affect and embarrass the operation of the School system itself.

I hope, therefore, that the Legislature will, at its present Session, make some other provision for the appointment of