

## ROAD LAW IN SUPREME COURT.

**Johnston County Case, On Appeal.** Argued Saturday Morning. Manning for Treasurer. F. H. Brooks Represents Commissioners of Johnston County; Question of Form of Bond and Tax Levy Two Important Points; Court, After Short Conference, Adjourns.

(News and Observer, 10th.)

After hearing argument in the case of the Board of Commissioners of Johnston County against the State Treasurer, involving the validity of the Clark road law, the members of the Supreme Court held a short conference and adjourned until next Wednesday, at which time the court is expected to hand down a decision in this case and adjourn for the summer months.

In addition to the briefs submitted oral arguments were made by Attorney General Manning, for the defendants, and Mr. F. H. Brooks, of Smithfield, for the plaintiffs. The court took a lively interest in the arguments and asked the attorneys a number of questions. In reference to the form of bond Justice Brown asked whether it was constitutional for a county to issue a bond which bound the entire county for an indebtedness where the entire county had not had a voice or vote in the matter. He wanted to know what would be the status in case the two townships in the case at issue did not meet the obligation.

Judge Manning opened the argument. In his opinion the amendatory act changing the date for holding the first election was not material.

**Manning on Bond Question.**

On the bond question, he, in part, said:

Judge Manning expressed the opinion that in less than ten years an effort would be made to pass an act in the Legislature for the retirement of these bonds.

**Mr. Brooks' Argument.**

Mr. Brooks argued that the amendatory act was not a material change and therefore did not affect the validity of the original act. As to the receipts of the bonds in installments, he said that it was merely a question of bookkeeping in the Treasurer's office and that the Treasurer would not have to borrow the full amount of the bond, but only the amount applied for as the counties needed it.

In the absence of specific instructions in the act he took the position that the tax should be levied on both property and poll.

He did not believe any legislation in recent years was so far-reaching and he believed that the scheme has solved the problem of road work.

"Upon the second question presented, we have been unable to find any authority that would be of assistance to the court. It is a question of the administration of the law. The Treasurer was required by section 1 to advertise and to sell not exceeding \$400,000 of bonds of the State of North Carolina, which bear interest from the first day of July, 1917. Of course, he will not deliver more than the aggregate amount of the loans authorized by vote in the townships of the State, but he had to make provision for \$211,000. Of the proceeds of these bonds, how much will be required by the several counties. The Treasurer is in no position to know, and will not know under the provisions of the act until the first of July. He cannot act upon any other assumption than that the counties will demand the amount that has been voted, because if he should act upon a different assumption and the counties should demand the amount voted, he would be unable to provide the money and would not have it to meet their demands.

The State is required to pay interest on the bonds which it issues and sells, from the 1st day of July. If it issues and sells \$211,000 of bonds, it must pay interest from the said 1st of July. If the counties take less, then the scheme contemplated by the act fails, because under the construction contended for by the counties they would pay 5 per cent interest only on the amount actually borrowed from the 1st of July, which amount would be less than the amount of bonds issued by the State to meet the demands of the counties under the act. So, the contention of the Treasurer is that as the fund is available to the counties, then they ought to issue to the State Treasurer a bond for the total amount voted, and that amount should bear interest from the 1st day of July, 1917. It would be exceedingly difficult to keep straight with the counties borrowing less than the amount voted and paying interest on less than the amount voted if a different rule of construction is adopted, and it must be remembered that this scheme is to continue for a period of forty-one years, and the act expressly provides that at the expiration of forty-one

years from the date of the bonds said county bonds shall be returned by the State Treasurer and said county shall be discharged from further liability on said bonds. If the court shall be of opinion that the counties have a right to take less than the amount voted and to pay interest on the amounts taken only from the 1st of July and from the 1st of January, or on the 1st of July following, then, we submit, it would be infinitely better that the State Treasurer take a separate bond for the counties, representing the respective amounts borrowed. So that, by looking at the face of the bond, it can always be ascertained what amount draws interest and from what date the interest is payable. It is important that the commissioners have this determined in order that they may know how to make the tax levy for the year.

**Taxation Issue.**

"(3) The third question presents the always difficult question of taxation. The sections and articles of the State Constitution that need to be considered, we respectfully submit, as pertinent to the third question, are Article V, sections 1 and 3, and Article VII, section 9. It will be noted that section 18 of the act directs that there shall be levied a special annual tax for a period of forty-one years sufficient to produce the amount required, which is fixed by the interest at 5 per cent, the cost and expenses of collection, the penalty, if necessary, and maintenance fund of 4 per cent for the first four years. These are mere mathematical calculations, and we think that the amount to be raised by taxation is undoubtedly sufficiently ascertainable to meet the requirements of any provision of the Constitution. The question is, mainly, upon what property is the tax to be levied. We can be only of service to the court on this question by simply directing its attention to some recent decisions of this court. The most recent decision, where the question has been elaborately considered and in which case four of the judges of this court wrote opinions, is the case of Moose v. Commissioners of Alexander, decided November 23, 1916, found in the 90 S. E. R. at page 441, and as especially applicable to this case is the case of Jones v. Commissioners of Person County, 107 N. C., 248, Section 9 of Article VII of the Constitution provides:

"All taxes levied by any county, city, town, or township shall be uniform and ad valorem upon all property in the same except property exempted by this Constitution."

"It will be noted in the record that the poll tax in the townships in the plaintiff county voted for good roads under the act already exceeds \$2. And if the County Commissioners are, under the provisions of the act, required to levy a tax upon polls and observe the equation of taxation, the poll tax in these townships will be in excess of \$2. We understand from the decision of this court in the Moose case that the poll tax can exceed \$2 when the addition is for a special purpose, with the approval of the Legislature, and it has been held, not only in that case, but in many cases cited in that opinion, that a tax for road purposes under an act of the Legislature is a special tax for a special purpose.

**Lack of Uniformity.**

The case of Jones v. Commissioners was approved in the Moose case. If, therefore, the Constitution does not require the levying of the capitation tax except for ordinary State and county purposes, and as the Legislature in this act has not required the levying of the capitation tax, and this being for a special purpose, it would seem that all the taxes to be levied under this act must be upon the property alone. Or, if the Legislature had delegated to the boards of county commissioners the power to levy a tax, and if it is within their discretion to levy a tax upon the poll, then it would seem that there would be no uniformity in the subjects of taxation under this act, because the board of commissioners of one county might think that the polls ought to bear a part of the burden of this taxation, while the board of commissioners of another county might think property alone should bear the burden of this taxation. And if, as is ruled in the Jones case, the equation of taxation does not have to be observed when a tax is levied for a special purpose, then it would be within the direction of the board of county commissioners to levy such poll tax as they thought proper, and this might change each year. It would seem, therefore, under the decisions of this court that as the Legislature in this act did not require any levy upon the poll for the purpose of producing revenue under the act, then under the Jones case and under section 9 of Article VII, property alone must bear the burden of this taxation. It is, of course, highly important that it should be determined whether, under this act, section 18 is enforceable, and if so, what are the subjects of taxation to be taxed under this section, whether the tax is levied

by the board of county commissioners in the county or in any township of the county. The county's faith is pledged to the State, whether the tax is collected from the entire body of the county or only from the township sub-division of it, and the subjects of taxation under the act are the same in both instances. The act requires that the tax shall be levied at the same time other taxes are levied. Therefore, it is important that the questions presented under this law shall be determined in time for the boards of county commissioners in those counties to levy the tax provided by this act."

**Food and Feed First: Plant Plenty of Grazing Crops for Hogs.**

Hogs are worth from fourteen to sixteen cents a pound live weight, but corn is selling for about two dollars a bushel. In other words, hogs and corn have gone up in about the same proportion, and there is nothing to be made by feeding corn to hogs, except as part of the finishing ration.

In other words, while there are good profits to be made in hogs, these profits can only come to the man who raises them on cheap feeds. Moreover, in so far as practicable these feeds should be harvested by the hogs themselves.

Every farmer with hogs, and this should mean practically every farmer in the South, should have grazing crops for every month in the year, including first of all a good permanent pasture of Bermuda, lespedeza and bur and white clovers. If this Bermuda pasture has not already been provided, there is still time to start it this season. Then if velvet beans and peanuts are not in the corn, let's be sure to put in plenty of cowpeas. Cowpeas or soy beans after the oats and wheat should also go in without delay. Other fine hog crops that may be planted after the small grain are peanuts and sweet potatoes. Then in August and September arrange to get in a big acreage of oats, Abruzzi rye and bur and crimson clover.

There's big money in hogs—provided, always, we have plenty of cheap feeds for them. The time to prepare for these feeds is right now.—Progressive Farmer.

**LOWER JOHNSTON ITEMS.**

The people in these parts have been fortunate enough to have plenty of rain lately.

Mr. J. M. Johnson made a business trip to Fayetteville last week.

Mr. and Mrs. J. O. Johnson, from Pine Level, spent several days in this section visiting relatives recently.

Misses Merdie and Kitsy Denning spent the week-end with Miss Lola Maie Lee, in Sampson County.

Miss Levonia Tart, who is studying for a trained nurse at Charlotte hospital, is visiting her parents, Mr. and Mrs. P. B. Tart.

Mr. Harvey Eldridge, from Richmond, Va., is visiting relatives in Lower Johnston.

Quite a number of young people enjoyed an ice cream supper at the home of Mr. Jesse J. Lee, Saturday night.

Last Monday morning about three o'clock, the death angel came and claimed for its own Mr. Julius Barefoot, who for fifteen long years had been confined to his room with rheumatism. His death was not unexpected to those who knew his condition. Mr. Barefoot was 59 years old. He was one of seventeen children, fourteen of whom are still living. Besides those, he leaves to mourn their loss a wife and three sons—Dr. M. L. Barefoot, R. A. P. Barefoot and Paul Barefoot, with a host of relatives and friends. He was liked by all who knew him. He was a good neighbor and friend, and ready to help those about him as long as he was able. He bore his pains and suffering as cheerfully as any one could, always tried to speak a word of cheer to everybody. He united with the Calvary Baptist church about three years ago, but was not baptized till several months later on account of his afflictions. He was a Christian man and said he was ready to die, left assurance that all was well with him. The funeral was conducted by Rev. Mr. Rallings, of Benson, at the home of the deceased, after which the remains were taken to the Lee cemetery and laid in its last resting place amid a large crowd of friends and relatives who had gathered there to pay the last tribute of respect to one that will be greatly missed in this community. The floral offerings were many and beautiful.

**REPORTER.****A Snake.**

Mrs. Needham Stanley left her child lying on a quilt on the floor yesterday, and went out into the field. On returning to the house she found lying on the quilt with her child, a large snake. Mrs. Stanley rescued the child without she or it being bitten.

The snake got away before help could be gotten to kill him.

The Lord showed His power there by not allowing the snake to bite the child.

C. J. THOMAS.  
Four Oaks, June 13, 1917.

**NEW HOPE NOTES.**

Mr. H. E. Upchurch and family of Four Oaks, spent the week-end with his parents, Mr. and Mrs. J. W. Upchurch.

Mrs. P. T. George spent the week-end with her daughter, Mrs. J. P. Sanders.

Mr. Marvin Sanders and Mother, Mrs. Annie B. Sanders, and sister, Miss Sallie, spent Saturday in Smithfield.

Mrs. J. M. Beatty, of Smithfield, spent a few days last week with relatives in this section.

Miss Sallie Sanders leaves this week for the East Carolina Teachers Training School to attend the summer session.

This section was visited by one of the heaviest rains Sunday night that has fallen this season.

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**RED CROSS WORK IMPORTANT.**

**Three Reasons for Supporting This Worthy Cause Are Given by Secretary Baker On His Recent Visit to North Carolina.**

"There are three reasons why the people who stay at home should actively support the work of the Red Cross," said Hon. Newton D. Baker, Secretary of War, on his recent visit to North Carolina. The first of these reasons, as explained by Mr. Baker, was that as hundreds of thousands of the young men of the country will soon leave their homes to take up their abode in the "White Canvas Cities" that they will need all the aid, the comfort and kindly interest that the folks back home can give them in the period of training for the men that their country expects of them. And there will be the sick and wounded to minister to with sympathy and consecrated service. Hospitals will need medical supplies, and even the services of trained individuals will be called for.

The second reason given by Mr. Baker for supporting the work of the Red Cross was that other countries have taught us the necessity of caring adequately and systematically for the dependent soldiers and families of soldiers, which problem has been found most easily and efficiently handled through the Red Cross.

The third reason assigned by the speaker was that the Red Cross as an agency of relief and philanthropic service has international recognition, has the President of the United States as its president, is chartered by Congress and has its accounts audited by the United States Treasury Department. It is the only guaranteed source of rendering aid in time of war or disaster that is recognized by the Government. Whatever is done or given through the Red Cross is sure of serving the needy in the most efficient way.

"While cities and larger towns have become actively interested in the work of the Red Cross," said Mr. Baker, "people of the country and small towns have not yet realized the importance of this service." That every town and organized community should form a Red Cross Auxiliary, organize classes in First Aid and meet and make bandages, comfort bags and other hospital supplies, always by the directions given, is, in the opinion of the Secretary, the best expression of the town's or community's appreciation for the boys fighting for liberty at the front.

**FOUR OAKS R. F. D. NO. 3.**

Mr. Tim Guin, of Stewart school section, spent Sunday in our community.

Misses Etta and Donta Parker, of Smithfield, spent Sunday in our burg.

Mr. T. I. Wallace made a business trip to Smithfield Saturday.

Mr. Q. C. Parker has purchased two nice pigs from W. H. Rodges, of Clyde, N. C.

Miss Gertie Dunn surprised her many friends Monday night when she left her home to go just across the county line to get married, the fortunate man being Mr. Willie Stanley, of Four Oaks. They made the trip in an automobile, Rev. S. Massengill performed the ceremony.

Mr. and Mrs. Q. C. Parker spent Sunday at the home of Mrs. Parker's brother, Mr. T. P. Adams.

**REPORTER.****An Ambition and a Record**

THE needs of the South are identical with the needs of the Southern Railway: the growth and success of one means the upbuilding of the other.

The Southern Railway asks no favors—no special privilege not accorded to others.

The ambition of the Southern Railway is to see that unity of interest that is born of co-operation between the public and the railroads; to see perfected that fair and frank policy in the management of railroads which invites the confidence of governmental agencies and the realization that liberty of movement which will enable it to obtain the additional capital needed for the acquisition of better and enlarged facilities incident to the demand for increased and better service; and, finally—

To take its niche in the body politic of the South alongside of other great industries, with no more, but with equal liberties, equal rights and equal opportunities.

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Start the day with a cup of good, old Luzianne. There's cheer in its very aroma—spunk and go-to-it in every swallow. You'll like Luzianne. Buy a can today and, if you don't agree it goes farther and tastes better than any other coffee at the price, tell the grocer and he will give you back exactly what you paid for it, without argument. You simply can't go wrong on Luzianne. Ask for profit-sharing catalog.

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**Red Devil Lye Eats Filth**

**Kill the Cause**

Germ-carrying flies bring disease direct to your home from the privy and outhouse. They wipe their germladen feet on your food, bathe in the baby's milk and leave many forms of sickness—then come the doctor's bills—and you know what that means.

Flies carry on their feet filth and the germs of typhoid fever, malaria, consumption—perhaps infantile paralysis and other dread diseases.

**Red Devil Lye, Destroys The Fly Eggs**

SPRINKLE RED DEVIL LYE FREELY once or twice a week in your privy or outhouse. You can't use too much. It will clean up these places, remove the foul odor and stop fly-eggs from hatching.

**RED DEVIL LYE is also simply wonderful for making soap, conditioning hogs and making compost for fertilizer.**</