

# Ashenille Daily Gazette.

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ASHEVILLE, N. C., THURSDAY MORNING, SEPTEMBER 14, 1899.

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## RAILROAD TAXATION

### Notable Hearing Begun in U. S. Court in This City.

### The Corporation Commission Cases Called Before Judge Simonton

### Nine Railroad Lines and the Western Union the Interested Parties.

### Suing in Federal Court Under the Craig Law—Excessive Taxation Alleged—Thousands of Affidavits.

The hearing of what is known as the corporation tax and fertilizer rate cases was begun before Judge Charles H. Simonton, of the fourth circuit United States court as indicated in yesterday's Gazette. The judge and counsel assembled in the clerk's office in the post-office building, the court room up stairs being in the hands of workmen, but it was soon seen that the office was too small and after a brief delay the court was convened in the Battery Park hotel ball room. The judge sat alone on the musicians' stage and the lawyers occupied chairs on the polished floor, the scene of many dances.

The cases under consideration are of two classes. The fertilizer rate case is one in which the Carolina Central railway company sued out an injunction against the state corporation commission to prevent its enforcing the reduction ordered by it on the transportation of fertilizers. The corporation tax cases are injunction suits by nine railroads comprising the Seaboard Air Line, the Atlantic Coast Line, the Southern railway and the Western Union Telegraph company against the corporation commission, the state treasurer and auditor to prevent the collection of taxes by these officers on the increased tax assessment placed by the corporation commission on these corporations.

There are ten of these tax cases but as they are similar they are considered by the court in the hearing as one.

The complaints in these cases were filed before Judge Simonton on the equity side of the court and temporary injunctions issued as prayed for and the defendants directed to show cause on a date fixed (yesterday) why these injunctions should not be made permanent. The defendants, the corporation commission, the governor, treasurer and auditor appeared with affidavits in the nature of answers to this rule to show cause, as it is technically called. The tax cases were taken up by the court and if the papers arrive from Raleigh the fertilizer case will follow.

A fine assembly of legal talent gathered in the ball room. The lawyers appearing in the cases are among the best in the state. Vice President A. B. Andrews (who looks like Grover Cleveland) and the ex-president was young and President Warren G. Elliott, of the Wilmington & Weldon railway, an Atlantic Coast Line road, were interested spectators.

An outsider with the Dreyfus trial in mind, asked where Dreyfus was, and irreverently said that Judge Leigh R. Watts, of Portsmouth, Va., the eminent general counsel of the S. A. L. was M. Demange, Dreyfus' counsel.

Franklin McNeill, of Wilmington, chairman of the corporation commission, Hon. S. L. Rogers and E. C. Bedford, of Raleigh, the other members, were present. Among the spectators were Representatives Walter Moore, of Jackson county; Thompson, of Onslow county; J. C. Curtis, of Buncombe, and Hon. J. M. Moody, of Wayneville, late major in the commissary department, United States army.

The counsel for the various interests are as follows: For the commission, the governor, treasurer and auditor, in the tax cases: ex-Judge Henry G. Connor, speaker of the house of representatives; F. M. Simmons, chairman of the democratic state executive committee, and his partners, James H. Pou, of Raleigh, and A. D. Ward, of New Bern; Chas. A. Cooke, J. C. L. Harris, John W. Hinsdale, all of Raleigh. In the fertilizer case—Ex-Chief Justice James E. Shepherd and R. H. Battle, of Raleigh; for the Atlantic Coast Line, George Rountree, who, as chairman of the joint committee prepared, and had charge of the much discussed constitutional amendment, and R. O. Burton. For the Seaboard Air Line, Judge Leigh R. Watts, of Portsmouth, Va., general counsel; Major John D. Shaw, of Laurinburg, and Captain W. H. Day, superintendent of the penitentiary, who, as the first man to establish the invalidity of the acts of the last legislature firing the fusionists from office, is responsible for E. S. McCall, Esq., now being solicitor for more counties than he had before the legislature abolished him. For the Southern railway, Chas. Price, general counsel for North Carolina, and John G. Johnson, of Philadel-

phia. For the Western Union Telegraph company, Fab. H. Busbee and R. C. Strong, of Raleigh.

Captain Price, in introducing his affidavits, outlined the case before the court and made the proposition to be discussed clear. It is this: That the complainant companies have been denied the "equal protection of the laws" of the state, guaranteed by the fourteenth amendment to the constitution of the United States. "Nor shall any state... deny to any person within its jurisdiction the equal protection of its laws." It is on this ground that the companies, corporations of the state under the Craig law, have the power to sue, in the United States court, other citizens of the state.

It has been said that railroads and telegraph companies would attack the law which Locke Craig passed at the last legislature on the ground that it was a restraint of inter-state commerce and also because it necessarily prevented the removal of causes (the object of Mr. Craig), but so far there is no indication of this plan and the state officials have made no question of the jurisdiction of the court.

The morning was taken up with the reading of several hundred affidavits taken by the companies in most of the counties of the state. These affidavits were to show that all over the state real and personal property was assessed at from 50 to 75 per cent only of its actual value, while the bills of complaint alleged that the railroad and telegraph property is assessed at nearly its full value. On the completion of this reading by Captain Price and Mr. Rountree their position was easily understood. Their clients had been taxed more than other people and therefore they had been denied the "equal protection" of the laws.

The answers of the defendants were read by Messrs. Pou and Harris. They denied the allegations of discrimination and referred to elaborate calculations attached to show that on a basis of earnings and market price of stock the railroads and telegraph companies were under taxed.

After lunch the reading of the schedule of affidavits taken in eighty-seven counties of the state was the program for the rest of the afternoon.

Mr. Pou has a smooth, pleasant and persuasive voice, and he did not spoil it by reading the affidavits themselves. There are 3,000 of them—100 of these are from Buncombe assessors, money lenders and real estate men; 11 are from Haywood and 19 from Henderson. One from Henderson is a bit pungent. It is in reply to one made by Sheriff Y. Williams for the railroad to the effect that the property in the county is assessed at less than its actual value. Dr. T. A. Allen's affidavit in reply simply says that Sheriff Williams has been for a number of years an employee of the Southern railroad.

At 5:30 o'clock Iredell county had been reached on the schedule and the court quit for the day. The schedule will be resumed this morning. No argument is probable until noon or afternoon at the present rate.

## UNION VETERANS LEGION IN ANNUAL ENCAMPMENT

### Cheers for Wheeler and Grant—Endorsement of Expansion.


Baltimore, Sept. 13.—There was much enthusiasm at the evening session of the annual national encampment of the Union Veterans legion today. Senator Wellington welcomed the delegates. He emphasized the object of the legion and said the organization representing these things should be "welcome anywhere under the canopy of heaven." Enthusiastic cheers greeted Wellington's assertion that the recent war united the blue and the gray in "old Joe Wheeler and the son of Grant." Several addresses were made endorsing expansion and eulogizing the flag. W. M. Cannon, of Newark, sang a song written to the tune "Maryland, My Maryland." Five hundred delegates are in attendance. This afternoon there was a parade and tonight a camp fire.

## MERRITT WILLING TO GO TO THE PHILIPPINES

### Declares a Newspaper's Report to the Contrary Untrue

Boston, Sept. 13.—General Merritt, who is visiting here, was interviewed tonight. He refused to express an opinion of the situation in the Philippines or as to General Otis' conduct of the campaign. He declared the statement in a certain paper that his wife was opposed to his going to the Philippines was untrue and unjust. He added: "I am willing to go at any time, and have so assured the president many times."

Buy a good stove from Mrs. L. A. Johnson and save half the fuel. Yes, she sells on the installment plan.



### Eyes

Are an every day possession. Almost every one has them. They don't seem to be very wonderful until they hurt us or we lose them. It does not make the affliction any easier to bear, to know that we are to blame. Save yourself this unhappiness by having us examine them for you, and fit you with proper glasses.

**S. L. MCKEE,**  
SCIENTIFIC OPTICIAN,  
45 Patton Ave.

## DETENTION OF THE TARTAR

### England Holds Transport at Hong Kong—Instructions Sent to Wildman.

Washington, Sept. 13.—A long conference was held this afternoon between Secretary Root and Acting Secretary of State Adee in regard to the detention of the transport Tartar by the British authorities at Hong Kong on the ground that the vessel is overcrowded. At the conclusion of the conference Adee sent instructions to the Consul Wildman, at Hong Kong, to lay the facts concerning the Tartar before the British authorities with a view to obtaining clearance.

The Tartar was recently refitted, affording large sleeping quarters for troops. It is understood that the objection of the British authorities arose from the fact they did not know that this extra space had been secured. Wildman is instructed to make this explanation to the custom officials at Hong Kong.

If the matter cannot be adjusted the war department will send another transport there from Manila to take home the 400 on board in excess of the chartered capacity. The fact that the Tartar has British registry has complicated the matter. The incident is considered important enough to become an international question.

### WATSON'S ILLNESS.

Nothing has been heard at the navy department confirmatory of the report that Rear Admiral Watson, commanding the naval forces at Manila, is ill. Private letters say that Watson is not well and the condition of his health precludes his staying at Manila. If Watson is relieved it is believed that Rear Admiral Remy will be his successor.

## PARDON FOR DREYFUS IS POSSIBLE

### Unless He Undertakes to Carry His Case to Court of Cassation.

Paris, Sept. 13.—Much surprise is felt here by the unfounded rumors afloat in London that Dreyfus had been pardoned. It is fully believed he will be pardoned once the revision court rejects his appeal. It is considered a foregone conclusion it will be rejected. It is believed that a pardon will be granted promptly if Dreyfus avoids requesting the minister of justice to allow his case to be carried to the court of cassation.

London, Sept. 13.—While the papers are full of letters from individuals and several firms announcing withdrawal from the Paris expedition and urging the government to do likewise, there is no intention upon the part of the British government of taking such a step.

The Evening News is urging the formation of a British legion of honor consisting of persons and firms who will have nothing to do with the Paris expedition and publishes a list of over forty firms and others, headed by Sir William Blake, Richmond, R. A., will not exhibit.

## YELLOW FEVER CONTINUES TO SPREAD AT KEY WEST.

### Three Hundred or Four Hundred Known Cases in the City Now.

Jacksonville, Sept. 13.—The Key West yellow fever situation is growing worse daily. According to reports today there are between three hundred and four hundred cases in that city. The exact number is unknown. Dr. Porter, in charge of the situation, in a despatch or today said that the physicians say they are too busy with the sick to report new cases. Two deaths occurred today.

No cases are reported today from Port Tampa or other parts of the state. ONLY SEVEN CASES AT NEW ORLEANS.

New Orleans, Sept. 13.—No new cases of yellow fever were reported today. There are seven cases in all here. One new case is reported in Mississippi City, making fourteen in all.

## WILL OTIS BE RETAINED IN THE PHILIPPINES?

### His Friends Hopeful—So Also Are Gen. Miles.

Washington, Sept. 13.—The friends of General Otis are becoming hopeful that they will succeed in having him retained in his present command. Last week they were deeply discouraged, and one, a high official at the war department, openly admitted that he believed "popular clamor" would result in his friend's recall and the assignment of General Miles or General Merritt to Manila.

The prediction is now being confidently made by General Otis' admirers that he will be permitted to demonstrate what he can do with a larger army before being censured for his failure to make more progress during the last campaign. The president has repeatedly expressed his confidence in General Otis, and Secretary Root has commended his reports for clearness and conscientiousness. But the latter official has been inclined to the suggestion that

an officer of higher rank, the major general commanding the army being preferable, should be placed at the head of the fighting forces.

Secretary Root has viewed the situation from an unprejudiced standpoint, and his recommendations were placed upon General Otis' ability as a soldier. He has taken the broad ground that where the army is there also should be the ranking officers. He is opposed to the proposition to permit the major general commanding to remain at his desk performing routine work, another major general acting as military governor of Cuba and the third as a commander of the department of the east, while the army is in the Philippines under the command of a brigadier general, which is Otis' rank in the regular army.

It is impossible owing to the conflicting interests at work to state positively how the contest for supremacy will terminate. General Miles' friends are as confident as are those of General Otis, but the drift of feeling now seems to have turned in favor of the latter. Plans have been adopted at the department, however, under which each of the major general MacArthur are each to be given a responsible command of several divisions, and they will begin operations just as soon as the rainy season is considered at an end. The cavalry will be under command of General Lawton, while General MacArthur's command will be composed principally of infantry. One command will operate to the north while the other will probably cover the south.

## ANTI-TRUST CONFERENCE OPENS AT CHICAGO.

Chicago, Sept. 13.—The national conference on the uses and abuses of trusts and combinations opened here today. The meeting was called to order by Chairman Franklin H. Head, Dr. Howard S. Taylor, representative of Mayor Harrison, welcomed the delegates. Attorney General E. C. Akin, Johnson, of Denver, for Saturday, S. P. Corliss, of New York.

At the evening session the principal speakers were Governor Atkinson, of West Virginia, and P. E. Dove, of New York, president of the Commercial Travelers' National league. Governor Atkinson spoke at length on trusts as a menace to the country's welfare. Mr. Dove said he was opposed to trusts. While they were for speculative purposes principally, they had other sinister designs, including the virtual enslavement of labor. He declared 35,000 commercial travelers were thrown out of employment and 25,000 had been reduced in salaries by the trusts.

## ANOTHER STRIKE IN HAVANA.

Havana, Sept. 13.—Two thousand painters struck today, in sympathy with the striking carpenters and masons. There have been no disorders. All building operations are now suspended. It is estimated that between ten and fifteen thousand men are out.

## EPISCOPAL CONVENTION.

### Opening Session at Morganton—Dr. R. R. Swope Elected Secretary.

Morganton, Sept. 13.—The fifth annual convention of the missionary district of Asheville has been in session at Grace church in this place today. The order of proceedings was along the lines of the program already given in the Gazette. After morning prayer a session for organization of the convention was held. Bishop Horner in the chair. Rev. R. R. Swope (All Souls' church, Baltimore), was elected secretary on a close vote. After a recess morning service was held. Last night Rev. E. E. Edwards (St. James' church, Hendersonville,) preached the text being Galatians vi:25.

The sessions of the convention will continue today and tomorrow.

Mrs. M. W. Williamson will open a Primary School at her residence, No. 94 Woodfin street, September 18th. Your patronage is solicited. She will be at home to callers at Mrs. Doe's, No. 20 Oak street, until the eighteenth.

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## SNIDER'S ON THE SQUARE.

## FRAMING AN ANSWER

### A Critical Task for the Transvaal Government.

### Seeking Counsel and Advice Throughout South Africa.

### Both Sides Arranging Their Affairs With a View to War.

### Reply May be Sent Today—England's Available Strength for Immediate Use, in Case of Hostilities.

Pretoria, Sept. 13.—With the exception of some short intervals the executive council has been engaged the whole day in considering a reply to Chamberlain's note. Nothing is known concerning the decision reached. Telegrams have been constantly passing between the president of the Transvaal and the president of the Orange Free State. "WAR INEVITABLE."

London, Sept. 13.—A despatch to the Pall Mall Gazette from Capetown says the British reply is regarded as an ultimatum and the correspondent's advice from Pretoria indicate that war is inevitable. It is said at Capetown that a cablegram has been received there from New York saying 10,000 Irishmen are ready to help the Transvaal.

The news from South Africa is all warlike. In Natal the troops are sharpening their swords and two regiments have moved forward to the border. The Natal inhabitants naturally fear an immediate Boer attack.

Here it is still uncertain when General Buller will start, and in any case there will be no movement of troops until after further developments, except the Indian contingent and four other regiments, one each from Aldershot, Egypt, Malta and Crete, making the additional force for South Africa 10,000 men, which will bring the garrison at Natal up to 15,000, which is quite sufficient for defense.

A conservative estimate puts the available force of the two republics at 20,000.

As yet no British volunteers have been accepted for Cape service and there are many efforts being made to secure warning for at least one battalion.

Colonel Sir Howard Vincent has offered to enroll a battalion 1,000 strong at his own expense. Such a regiment of picked marksmen would be extremely useful in Boer fighting, and its acceptance would give an immense impetus to the volunteer enthusiasm.

Pretoria, Sept. 13.—A thousand Irishmen residing in Pretoria and Johannesburg have organized as a regiment and have offered their services in defense of the Transvaal in the event of war with Great Britain.

Pretoria, Sept. 13.—The latest understanding here regarding the British reply is that it asks for an answer from the Transvaal within forty-eight hours. It is added that the executive has already deliberated on the matter and has been in telegraphic communication all the afternoon with the Orange Free State government which President Kruger consulted regarding the reply which will be drafted tomorrow, after the views of the Orange Free State have been ascertained. The reply will then be submitted to the volksraad. The situation is regarded as grave, but Secretary of State Reitz declared that he did not consider it hopeless.

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