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LEADS ALL NORTH CAROLINA DAILIES IN NEWS AND CIRCULATION.

An Attack at Midnight

NATIVES CUT TELEGRAPH AND ASSAULT OUTPOSTS.

Attempt to Destroy MacArthur's Line of Railway Communication Between Manila and Malolos—Natives Repulsed.

Manila, April 11.—5:40 P. M.—At about midnight the rebels cut the telegraph line at several places between here and Malolos, and signal fires were lighted and rockets sent up along the foot-hills to the right of the railroad. Later the enemy attacked the outposts of the Minnesota regiment between Bigaa and Bocave, five miles south of Malolos, killing two men and wounding fourteen.

Simultaneously the outposts of the Oregon regiment at Marilao, the next station on the way to Manila, were attacked, with the result that three Americans were killed and two wounded. The loss of the enemy was ten men killed and six wounded. The Americans also captured two prisoners.

Troops were concentrated along the railroad as thickly as possible, and the rebels driven back to the foot-hills.

The road-bed of the railroad was damaged, but it was repaired almost immediately, and traffic was soon resumed through to Malolos.

DISPATCHES RECEIVED FROM GENERAL OTIS.

Washington, April 11.—The following dispatch has been received from General Otis:

"Manila, April 11.

"Adjutant General, Washington:

"Insurgents attacked MacArthur's line of railway communication last night in considerable force; repulsed by Wheaton with heavy loss. Wheaton's casualties three killed, twenty wounded.

(Signed)

"OTIS."

The following dispatch gives additional information concerning the fight of Santa Cruz:

Manila, April 11.

"Adjutant General, Washington:

"Lawton's success at Santa Cruz more complete than reported yesterday. Enemy left ninety-three uninformed dead on field and number seriously wounded. Lawton captured city without destruction of property. Lieutenant Elling only officer wounded, slight, in hand. Enemy retired eastward; Lawton in pursuit early this morning. (Signed)

"OTIS."

5:55 P. M.—It is supposed that many of the rebels who attacked General MacArthur's line of communication and who were repulsed by the troops commanded by General Wheaton, were natives who entered that region in the guise of friendship. They had seemingly secreted arms in several places and fired on the Americans from the bushes at so close a range that they could be heard talking. One of the Filipinos yelled in English:

"We will give you damned Americans enough of this before we are through."

The rebels undermined the railroad at Marilao and unspiked the rails in an effort to wreck a train, while the railroad gang participated in the fight. The work of the rebels was discovered and repaired before the train arrived.

General Wheaton is preparing to punish the Filipinos.

The military gunboats Napidan and Laguna de Bay have succeeded in entering the Santa Cruz River and have captured a small unarmed Spanish gunboat and three launches which they discovered there.

The military gunboat Oeste has brought thirty-two rebels wounded, one dead Filipino and six wounded Americans to the hospital. It is known that ninety-three insurgents were killed during the capture of Santa Cruz.

MR. E. W. HITE DROPS DEAD ON THE STREET.

One of Henderson's Most Prominent Business Men and An Earnest Worker in the Church.

Henderson, N. C., April 11.—(Special).—Mr. E. W. Hite, one of our leading business men, dropped dead on the street about 4 o'clock yesterday afternoon. His death was quite a shock to the community. Mr. Hite was seemingly well at dinner, and was laughing and talking to friends up town a few moments prior to his death. He went to get his mail, and was returning to his place of business when he fell, dying instantly of paralysis of the heart.

Mr. Hite was a high-toned, Christian gentleman, and could with truth be called one of the pillars of the Methodist church.

He was 44 years of age, was born and spent his early life in Mecklenburg county, Va. He became a resident of Henderson eighteen years ago. He was engaged in the coal business, and no man here was more highly respected—his word was his bond.

Mr. Hite was the brother of Mrs. Cora Gregory and Miss Laura Hite, of Henderson; Mrs. Sterling Northington, Mrs. Robert Bailey and Mr. Lynne Hite, of South Hill, Va.; and the late Mr. Robert Hite, of Petersburg, Va.

The funeral services will be held from the M. E. church tomorrow morning (Wednesday) at 10 o'clock; the Rev. A. McCullen to officiate. The following are the pall-bearers: Messrs. W. E. Gary and R. R. Pinkston, J. L. Curran and W. T. Cheatham, N. B. Thomas and J. H. Goodrich, R. J. Corbett and J. H. Bridgers.

THE GERMAN PRESS BITTER.

It is Semi-officially Declared that if England and America do not Heed Diplomatic Remonstrances, Those Remonstrances Will be Fortified.

Berlin, April 11.—Dr. Joannes Raffel, the former German President of the Municipal Council of Apia, has arrived here and had several long conferences with the officials of the German Foreign Office.

The Lokal Anzeiger today prints an interview with Dr. Raffel in which he is quoted as saying:

"The decision of Chief Justice Chambers in favor of Tann was partly due to the fact that Mataafa is a Catholic, while Tann is a proselyte of the English missionaries.

"Mataafa is the only King the Samoans will tolerate."

There has been a sudden veering of views upon the part of both the Minister of Foreign Affairs, Baron Von Buelow and the Emperor.

A Foreign Office official said tonight to the correspondent here of the Associated Press, in energetic language, that Germany, before engaging in an investigation of the commission's work must insist upon the American and British Governments unmistakably disavowing the flagrant violations committed by Admiral Kautz and Captain Sturdee. In the absence of a disavowal, for Germany to join the commission would be a mere farce. He added:

"When the commission starts it must start on the status quo and not on a status created by the illegal acts of subordinates in Samoa."

More energetic still is the semi-official announcement of the Hamburg correspondent, which declares that "if England and America do not heed the diplomatic remonstrances made in London and Washington these remonstrances will be fortified," adding:

"Germany insists upon receiving full satisfaction for the number of breaches committed in Samoa."

The tone of the German press during the last two days has been most bitter.

Inquiries made by the correspondent of the Associated Press at the Foreign Office have elicited the statement that nothing is known of the alleged British annexation of the Tonga Islands, and it is not believed such action has been taken, as it is claimed it would be a gross violation of the Anglo-German agreement of 1886.

NO DISAVOWAL WILL BE MADE HERE.

Unless it is Clearly Proven That Admiral Kautz Was in the Wrong.

Washington, April 11.—As a result of conferences held at the State Department and at the British Embassy, efforts will be made to have the Samoan high commission make a quick trip across the country, reaching San Francisco in time to catch the boat leaving for Samoa one week tomorrow. This is regarded as a distinctly favorable turn in the negotiations, and as indicating that the three Governments are very near to a complete accord on all the points of the commission. It does away also with the reports that Germany was withholding the appointment of her commissioner, and makes practically certain that Baron Speck von Sternberg, First Secretary of the German Embassy here, will be the German high commissioner.

As it has been strongly intimated in the Berlin dispatches that the German Government was about to make a demand for a disavowal of Admiral Kautz's actions, it may be stated that our Government will certainly not accede to any such request in advance of a full knowledge of all the facts in the case and a conviction that the Admiral acted wrongly, the presumption always being that our officers have acted with due propriety until the contrary is shown to be the case. If Admiral Kautz found Mataafa, the self-constituted King, with his thirteen chiefs, dominating the affairs of the island, involving the suspension of the functions of the Supreme Court, and of the municipal council, formally and duly established by treaty, then it was his duty, according to the State Department, to bring the conditions at once into conformity with the treaty. If this involved the dissolution of the provisional government there can be no legal complaint, it is said, by any one of the three treaty powers who have bound themselves to carry out and maintain the treaty of Berlin.

Some surprise is expressed by the Department officials at the misconception entertained in Germany of the terms of Admiral Kautz's proclamation, and it is pointed out that according to the terms of the proclamation as printed here, Admiral Kautz did not say "that all three consuls had expressed a willingness to annul the provisional government," but that a meeting of the consuls had been called and that a decision had been reached to annul the provisional arrangement.

POPE EULOGIZES CZAR'S MOVEMENT FOR PEACE.

Rome, April 11.—The Pope today received the members of the Sacred College, who congratulated the Pontiff on his restoration to health.

In his address to the Cardinals, the Pope, after expressing gratitude to the Diety for his restoration to health and his thankfulness for the proofs of affection from all parts of the world, warmly eulogized the Czar's initiative in calling the peace conference and expressed the hope that it would lead to the settlement of all disputes between nations by moral and pacific means.

Washington, April 11.—The State Department has sent strong instructions to United States Minister Merry to be presented to the Nicaraguan Government at Managua, looking to the discontinuance of the practice of the recollection of taxes already paid by merchants there.

FINAL STEP TOWARD PEACE.

Exchange of Ratifications Between the President and M. Cambon at the White House. The President's Proclamation. The New Minister to Madrid.

Washington, April 11.—The condition of war which has existed between the United States and Spain since April 21st, 1898, terminated today, when the last formalities in the restoration of peace were performed by the exchange of ratifications of the peace treaty. Coincident with this President McKinley issued his proclamation declaring that the war was at an end, and the appointment of Bellamy Storer was determined upon as United States Minister to Spain.

The principal ceremony of the day occurred in the reception room at the White House, when the exchange of ratifications took place at 3 o'clock. In anticipation of the historic character of the event, many members of the Cabinet and officials prominent in the Administration, gathered at the White House.

Shortly before 3 o'clock the French Ambassador, M. Cambon, arrived, in company with M. Thiebaut, First Secretary of the Embassy, the latter bearing the Spanish copy of the peace treaty. Mr. McKinley cordially greeted the Ambassador, and after a brief exchange of well wishes, the formal ceremony began.

The powers of Mr. Cambon and Secretary Hay were examined, a protocol concerning the day's ceremony signed and other formalities concluded. These preliminaries took some time, so that it was nearly 3:30 before the actual exchange began. The signing of the protocol of exchange occurred at 3:28 P. M., Ambassador Cambon signing for Spain and Secretary Hay for the United States. The protocol was in French, and briefly recited the circumstances leading up to the exchange. This cleared the way for the exchange itself, constituting the final act. The President took from the desk the American copy of the treaty, handsomely engrossed, bound in dark Morocco and encased in a black Morocco portfolio, and handed it to M. Cambon. At the same time M. Cambon handed to the President the Spanish copy of the treaty, also engrossed, bound in Morocco and encased in a maroon-colored Morocco box. There were deferential bows as each received from the other this final pledge of peace. The exchange of ratifications occurred at 3:35 P. M. The President was the first to speak.

"Mr. Ambassador," said he, "I will issue my proclamation at once."

M. Cambon thanked the President for the promptness with which the proclamation followed. This ended the formal ceremony, and after brief felicitations the Ambassador and other officials withdrew.

The effect of the action taken today is to completely renew the peaceful relations, trade, official, diplomatic, consular, and in all other ways, between this country and Spain. Following the appointment of a United States Minister to Madrid and a Spanish Minister to Washington it is expected that consuls will be sent to Barcelona and other large places in Spain, where our consular representations were suspended by the war. At the same time Spanish consuls will be appointed throughout this country. For a time the trade and navigation between the two countries will proceed without treaty protection, as the war put an end to the commercial treaty, but a treaty of trade, navigation and commerce, suitable to the new conditions and the needs of both countries and also an extradition treaty will be negotiated soon.

After the ceremony President McKinley issued the following proclamation:

"Whereas, a treaty of peace between the United States of America and Her Majesty the Queen Regent of Spain, in the name of her august son, Don Alfonso XIII, was concluded and signed by their respective plenipotentiaries at Paris, on the tenth day of December, 1898, the original of which convention being in the English and Spanish languages, is word for word as follows:

(Here full text of treaty is included.)

"And whereas, the said convention has been duly ratified on both parts, and the ratifications of the two Governments were exchanged in the city of Washington, on the eleventh day of April, one thousand eight hundred and ninety-nine;

"Now, therefore, be it known that I, William McKinley, President of the United States of America, have caused the said convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

"In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

"Done at the city of Washington this the eleventh day of April, in the year of our Lord one thousand eight hundred and ninety-nine, and of the Independence of the United States the one hundred and twenty-third.

"WILLIAM MCKINLEY.

"By the President:

JOHN HAY, Secretary of State."

BELLAMY STORER, MINISTER TO MADRID.

Washington, April 11.—Mr. Storer's selection for the Madrid mission is a distinct promotion, in the diplomatic line. The difference between Brussels and Madrid in compensation is not considerable, but in the light of recent events, the latter has come to be of much importance. Mrs. Storer is a Catholic.

It is assumed here that the Duc D'Arcos, late Spanish Minister to Mexico, will be named as Minister to Washington and the officials sincerely hope that this will be done, for the Duke is most favorably known in the United States, and is declared to be well calculated by disposition and inclination to speedily restore mutual good relations between the United States and Spain.

Court Decides Day

SAYS LEGISLATIVE ACT WAS UNCONSTITUTIONAL.

Justice Clark Dissents in an Able Opinion That Correctly Construes the Law—Court Goes Fusion—Furches Writes Politics.

Though what is said below is not official, it's probably no less true.

The Day case, involving title to superintendency of the penitentiary, has been decided by the Supreme court.

That opinion will probably be handed down Tuesday, the next "opinion day."

It is quite a lengthy one, going fully into a discussion of the questions involved.

The writer of the opinion is either Justice Montgomery or Justice Clark.

There is reason to believe the decision is in favor of Day.

But maybe not. For this is not official.

If it's wrong no harm's done. If it's right I'll throw myself a bouquet.

We'll wait and see. There's nothing else to do.

Whether or not the decision will go to the extent of declaring that all appointments not specially named in the Constitution shall devolve upon the Governor, I do not know. It probably will not.—From the News and Observer, April 2.

The expected has happened. The above prediction has come true to the letter.

It was too cold for bouquets, so I just shook hands with myself in warm congratulation. I may now sit among the "I-told-you-sos."

How did I find out so far ahead? Why it was a political question, so I talked to Republican politicians. Just try the recipe next time for yourself.

The opinion was written by Justice Montgomery. From this Justice Walter Clark dissented. In reply to this dissent Justice Furches wrote a political dissertation which he has labelled a "concurring opinion."

In Judge Montgomery's opinion, which is the opinion of the court, it is held that it is not competent for the Legislature to oust the incumbent of an office and then continue the office with substantially the same duties imposed; and the fact that the duties to be performed are transferred to three persons instead of one makes no difference. This rule applies to offices created by the Constitution as well as to those created by statute. The office of superintendent of penitentiary is not a constitutional office.

Judge Clark holds, in his dissenting opinion, that the office of superintendent of the penitentiary was actually and entirely abolished by the Legislature, the power that created it; the fact that the penitentiary must still be governed is no proof that the office of superintendent is still in existence under another name. "The management and control of the State Prison is essentially a governmental function. It is an indispensable part of the administration of the criminal laws of the State. No Legislature can deprive the State of that power by giving it away or bargaining it away." Judge Clark further holds that "if an office once useful should become useless and an unnecessary charge upon the people, it is not only a right of the Legislature to abolish it, but it is its duty to do so."

It is a powerful legal argument—this opinion of Justice Clark—clean-cut and logical, it must carry conviction to the minds of fair-minded readers.

It is an opinion that turns on the other side their own guns, makes them writhe; and none more than Judge Furches, who straightway rushes to Judge Montgomery's rescue. Working himself into a holy partisan passion Judge Furches delivers himself of what he considers a mighty reply to Judge Clark. He declares that the office of Superintendent of the penitentiary has never been abolished, "that the office is intangible and consists in the duties of the office, and while these duties are combined, the office is continued."

No opinion in this State in recent years has attracted more general and wide-spread interest. For the past week little else has been talked of among politicians.

Even before the hour for handing down opinions yesterday a number of lawyers were impatiently waiting in the halls; and during the afternoon nearly every member of the Raleigh bar called at the clerk's office to get a peep at the decision.

Capt. Day and his attorneys were there, of course—all happy as new brides.

"I'm not surprised at the result," said the captain. "I was sure I'd win. Now I'm going to do my best to conduct the institution on business principles."

"Can you get any money?" he was asked.

"Oh, I don't contemplate any trouble on that score. The opinion says nothing on that line, but there'll be no trouble between me and the new board as to that."

And the Captain went to the telephone to tell his wife, "I've beat 'em."

Then there were Dr. Abbott's attorneys, anxiously turning through the different opinions and declaring the opinion fitted their case like the paper on the wall. Then there were Dan Patrick's friends declaring he was now certain of the balance of his term as president of the A. and N. C. Railroad, while others contended that Theophilus White, the shell fish commissioner, and Dr. Burns, the keeper of the capitol, were all in the same boat.

Dr. Burns was there in person, all smiles and good spirits.