

The News and Observer.

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RALEIGH, NORTH CAROLINA, FRIDAY MORNING, SEPTEMBER 15, 1899.

THE FIVE CENTS.

LEADS ALL NORTH CAROLINA DAILIES IN NEWS AND CIRCULATION.

NO DECISION IN THE CASE UNDER TWENTY DAYS

Judge Simonton Places the Burden of Proof on Railroads.

WHAT THEY MUST PROVE

THAT OTHER PROPERTY IS DESIGNATED ASSESSED BELOW ITS VALUE.

THAT RAILROADS ARE ASSESSED ABOVE

The Railroad Attorneys are Discomfited. Any Appeal from the Judge's Decision Must go to the Circuit Court of Appeals, Attorneys May File Briefs Within the Twenty Days.

Asheville, N. C., Sept. 14.—(Special.)—Judge Simonton will not decide the tax case within the next twenty days. He has given the attorneys that much time to file briefs if they so desire.

No commissioner will be appointed to take further testimony. He considers this as a full hearing, and any appeal from his decision must be to the Circuit Court of Appeals. He intimated this several times during argument today, much to the discomfiture of the railroad attorneys. He has placed the burden of proof on railroads and told them they must prove two things: 1, that real and personal property is uniformly and designedly assessed for taxation at less than market value; 2, that railroad property has been designedly taxed at full value. "And if I should come to the conclusion that they have proved this," he added, "I shall not regard that anybody has committed fraud. I shall think it was a perfectly honest mistake and no perjury on the part of officials."

This announcement was made this afternoon as court adjourned on conclusion of Mr. Simmons, opening speech for the State. Opening speech for the railroads was made at the morning session of court by Captain Price. Each speech consumed two hours. There are six other speeches to be made on each side as follows: Hinsdale, Harris and Connor for State; Burton, Shaw and Johnson for the railroads. They will consume all tomorrow and the telegraph case will be taken up Saturday.

Before the commencement of argument this morning the State completed the reading of its nearly three thousand affidavits in regard to full valuation of personal property. Among them were affidavits from W. M. Pruden, of Edenton; Thomas G. Skinner, of Perquimans; E. A. Aydyette, of Elizabeth City; L. S. Williams, of Wilmington; W. L. and Banks Holt, of Burlington; A. W. Haywood and B. S. Robinson, of Haw River; J. J. Laughinghouse, of Greenville; T. T. Hicks, of Henderson; C. Patrick, of Clinton; John S. Cunningham, of Person county; John F. Bruton and George D. Green, of Wilson. Some additional affidavits were made by Chairman McNeill and Clerk Brown as to actual valuation of railroad property of the State and showing by detail evidence of officials themselves that it had been much undervalued instead of overvalued, as claimed.

Affidavits from Wake county were 184 in number. Fifty of them by assessors, fourteen by members of the board of equalization, seven by county officers, six by money lenders and 106 by citizens. Some of these were very strong, all denying that there had been any undervaluation of private property to be undervalued or that it had been done.

The speeches of both Price and Simmons were remarkably able. Simmons was a specially great effort and on his conclusion he was warmly congratulated, not only by his own colleagues but by the railway attorneys and officials.

The principal points in Price's argument were as follows: That the State had conferred no power on the Corporation Commission to tax railroads. That the Machinery Act, which contained all authority to tax conferred this power on the Railroad Commission. This position was elaborated at length, but even granting this power the act of the Legislature, notwithstanding the provision of the constitution requiring tax to be uniform and equal, provided a different method for assessing railroads than that prescribed for assessing other property. That act upon its face is obnoxious to the Fourteenth Amendment, which provides that no State shall deprive any persons without due process of law or deny to any person equal protection of laws. That there is a rule which has obtained in the State of systematically valuing property of the citizens in counties from 45 to 75 per cent of the true valuation.

This occupied the largest part of the time assigned to Price for argument. He insisted that this rule had impressed itself upon the Executive and Legislative Departments of the State, and in this connection called attention to the messages of Governors

Vance and Jarvis and reports of the Auditor and Treasurer from time to time, in which it was suggested and stated that property in North Carolina is undervalued. That the court ought in view of the conflicting evidence in the case to appoint a master to ascertain how the fact is as to the rule and custom by taking testimony under oath. A great number of authorities, principally Federal, were cited in support of the above points. Price showed great familiarity with law touching the case and made a very fine argument.

Simmons first directed attention to the contention that the Corporation Commission has no power to fix tax values. The act creating it conferred all powers formerly vested in the Railroad Commission. In addition there was an amendment to the Machinery Act expressly conferring taxing power. Still another act provides for taxation of railroad property, by the Corporation Commission, that has hitherto escaped taxation.

All these acts under a recent State decision must be construed together. He argued that our system of taxation is about the same as that in South Carolina and the facts in this case the same as those in the Chamberlain case decided in that State by Judge Simonton.

As to the contention that the method prescribed by the law for valuing railroad property is different from the method prescribed for other property, and therefore unconstitutional, he said this had been too often settled to require serious consideration. He quoted a large number of authorities on this point.

This attack on the Commission's valuation, he pointed out, was an attack on the judgment of a tribunal of competent jurisdiction, arrived at according to law, and that to set it aside two things

(Continued on second page.)

SOUTHERN HOSIERY MEN

THEY MEET AT CHARLOTTE AND FORM AN ASSOCIATION.

Schedule of Advanced Prices Adopted. Three Fourths of South's Soft Yarn Mills Were Represented.

Charlotte, N. C., Sept. 14.—The Southern Hosiery yarn spinners met here today and formed an association. A number of commission men were in attendance and in conference with the spinners. A schedule of advanced prices was made and adopted. Charles Adamson, Cedartown, Ga., was made president and J. F. Taylor, of Kingston, N. C., secretary. Three-fourths of all the mills making soft yarn in the South were represented. The association adjourned to meet October 12th when it is understood another advance will be made.

SUPPRESSED A VILE SHEET.

General Ludlow's Action is Approved By Secretary Root.

Washington, Sept. 14.—Secretary Root has approved that action of General Ludlow in suppressing the Reconcentrado, a paper formerly published in Havana. After the paper had been suppressed the publishers appeared in Washington and protested to the Secretary of War that the action of General Ludlow was an infringement on the rights of citizenship. They petitioned to have the order of General Ludlow revoked. The Secretary referred the whole matter to General Brooke for report, who in turn referred it to General Ludlow. The report of General Ludlow, endorsed by General Brooke has been received at the War Department and Secretary Root disposes of it in the following endorsement:

"War Department, Washington, September 14th: 'The Reconcentrado' appears to have been a vile publication. Its suppression raises no question of the liberty of the press. Every Government is bound to protect the community against public indecency, in this as well as in other forms. It is to be regretted that the persons responsible for the publication cannot be criminally punished.

"The order of General Ludlow is approved, and the petition is denied. (Signed) "ELIHU ROOT," "Secretary of War."

WANTS TO EAT ESTERHAZY.

Another American Challenges Him to Mortal Combat.

Columbia, S. C., Sept. 14.—The following challenge to mortal combat was called this morning to Count Ferdinand Walsin Esterhazy, at his address in London:

"Sir: Believing you to be answerable for the misery and humiliation of Captain Dreyfus of the French army, and he, Captain Dreyfus, not being able to call on you personally for satisfaction, I as an American, freeborn, loving liberty, do volunteer in my own right to meet you on the field of honor in behalf of Captain Dreyfus at any time and place agreeable to you.

(Signed) "PAUL E. AYER," "Anderson, S. C."

REFUGEES COME TO ASHEVILLE

Knoxville, Tenn., Sept. 14.—Hundreds of refugees are coming to and through this city from the yellow fever stricken districts in Alabama and Mississippi. The majority are now going to Asheville, N. C., as the railroads are giving a special rate to that point.

THE CABINET WILL PARDON DREYFUS

The Decree Will be Signed September 19th.

SO DECLARES THE MATIN

MANY OFFICERS ASK THAT HE BE PARDONED.

THIS IS ASSERTED BY THE FIGARO

The Paris Correspondent of the Daily Telegraph Says it is Certain that Captain Dreyfus Will be Liberated. Letter to Madame Dreyfus.

Paris, Sept. 14.—The Matin this morning asserts that the Cabinet has agreed to pardon Dreyfus and that the decree will be signed September 19th. Many of the provincial papers publish articles insisting on the granting of a pardon.

The Figaro says that many officers of the army are asking that Dreyfus be pardoned.

Countess Prokeschostein, President of the Austrian Red Cross Society, has written a letter of condolence to Mme. Dreyfus.

London, Sept. 15.—The Paris correspondent of the Daily Telegraph says: "It is certain that Captain Dreyfus will be liberated. The only question to be settled is one of ways and means."

RESIGNS AS A PROTEST.

Rome, Sept. 14.—The Tribune says that Signor Tommaso Villa, President of the Italian Commission to the Paris exhibition, has resigned as a protest against the verdict of the Rennes court martial.

JOHN DELEGAL CONVICTED.

Verdict Accompanied With a Recommendation to Mercy.

Guyton, Ga., Sept. 14.—The case of John Delegal, of the Darien rioters, sent to Effingham court on charge of venue from McIntosh county, was concluded today in a verdict of guilty of murder with a recommendation to the mercy of the court. He was sentenced to life imprisonment. John Delegal, it will be remembered, shot and killed Deputy Sheriff Townsend, who went to arrest him during the recent race riots. His brother and sister who were indicted with him were acquitted.

NO NEW CASES AT NEW ORLEANS

New Orleans, La., Sept. 14.—President Soucheb, President of the State Board of Health tonight issued the following bulletin:

"No new cases, seven cases up to date, one of which died. Others convalescent and improving. All isolated and under control. All in same residence section of the town. One case in Pass Christian, Miss. I have sent a medical inspector and will station there a sanitary officer to see that isolation is satisfactorily carried out. One new case in Mississippi City under supervision of Dr. Gant of the Mississippi State Board."

CRUSHED BY A CANNON.

Norfolk, Va., Sept. 14.—Charles J. Thompson, a prominent fraternal man and employe of the Navy Yard, was killed instantly today by a gun he was assisting in dismounting on the gunboat Newport. One of the guns fell upon him, crushing his breast and intestines into a shapeless mass. He was about forty years old, popular and leaves a family.

PURCHASE CHEMICAL WORKS.

Charleston, S. C., Sept. 14.—It is stated here on the best authority that the Virginia-Carolina Chemical Company has purchased the big plants of the Georgia Chemical works, which include the only fertilizer works in Augusta and the fertilizer plant and mines at Pon Pon, this State. Consideration not given.

DUCKTOWN STRIKE GROWING.

Blueridge, Ga., Sept. 14.—The strike at Ducktown, Tenn., is assuming large proportions and the furnace and ore roasting men having joined the strikers, everything is shut down.

ORDERED TO PHILIPPINES.

Washington, Sept. 14.—Secretary Root has ordered the Twenty-eighth volunteers, Lieutenant Colonel Leonard, from Camp Meade, Pa., and the Twenty-ninth, Colonel Hardin, from Fort MePherson, Ga., to San Francisco, to embark for the Philippines. The order is in the same form as that issued to other regiments.

FEVER AT PASS CHRISTIAN.

One New Case at Mississippi City Situation in Jackson Unchanged.

Jackson, Miss., Sept. 14.—Dr. J. J. Harry, State Health officer in charge at Mississippi City, reports tonight that one case of yellow fever has developed at that place since last night. The case is of a mild variety and the patient is located in one of the formerly infected houses.

A newly infected point is announced, Pass Christian, on the Gulf Coast, reporting one mild case. The premises are closely guarded with the local health officer in charge.

The situation in Jackson shows no change tonight and no new cases are reported. Major Porter, the only patient is hanging tenaciously to life, but the attending physicians say he has scarcely one chance in fifty to recover.

FIFTEEN NEW CASES OF FEVER.

Key West, Fla., Sept. 14.—Fifteen new cases of yellow fever have been reported in the past 24 hours and one death.

TROOPS LEAVE NEW ORLEANS.

Atlanta, Ga., Sept. 14.—General Frank, commanding the Department of the Gulf, has ordered two regiments now at New Orleans, to McPherson Barracks, near Atlanta, on account of the yellow fever prevalent at the former place. The movement is made in accordance with advices received by General Frank from the War Department today.

POLICE RAIDS AT PARIS.

Paris, Sept. 14.—Fresh police raids were made this morning at the residences of prominent Royalists.

CHARGES OF CORRUPTION

AGAINST THE AMERICAN OFFICIALS IN MANILA.

Made by a Private of First Colorado Volunteers.

American Soldiers Sentenced to Death for Rape.

Denver, Col., Sept. 14.—Napoleon E. Cuyol, late Private of Company G, First Colorado volunteers, who during the last three months of 1898 served as a clerk under Major Kilbourne and later under Lieutenant Colonel Potter, auditor of public accounts, Manila, publishes this evening a signed statement in which the gravest charges of corruption are made against the American officials in Manila.

He says an examination of the vouchers forwarded to Washington will show that exorbitant prices are paid for all kinds of supplies purchased in Manila; that vast quantities of high class wines and other supplies have been purchased ostensibly for the Spanish hospitals while in the American hospitals only the coarsest supplies are furnished. He says court martials of private soldiers charged with selling Government property have been stopped because they would result in the exposure of official falsity. The robberies he asserts will aggregate an enormous sum.

SWUNG FROM TELEGRAPH POLE

One of the Two Negroes Who Committed the Assault at Tity.

Tifton, Ga., Sept. 14.—A negro was arrested at Tity and positively identified as one of the two negroes who assaulted Miss Johnson at that place last Tuesday. Two hundred men heavily armed, assembled at Tity. People passing on a train at 2 o'clock this morning saw a negro suspended twenty feet in the air from a telegraph pole.

TO DIE FOR CRIMINAL ASSAULT.

Manila, Sept. 11.—Via Hong Kong, Sept. 14.—The local papers assert that corporal Danboffer and Private Conine, of Company B, Sixteenth Infantry, have been sentenced to death by court martial, and that Private McEneaney has been condemned to twenty years imprisonment for having criminally assaulted a native woman in Manila a month ago. The crimes, it is said, greatly aroused the natives.

The papers assert also that General Otis has recommended that President McKinley approve the sentence and that he desires a public execution of the men sentenced to death as a warning against a repetition of the crime.

VIRGINIA BASE-BALL LEAGUE.

Norfolk, Va., Sept. 14.—The Virginia State Base-Ball League held an adjourned meeting here today and perfected the organization, electing the following officers:

E. H. Cunningham, Norfolk, President and Treasurer; H. L. Cardoza, Richmond, Secretary.

The new circuit will embrace Norfolk, Portsmouth, Newport News, Hampton, Petersburg and Richmond.

A salary limit that will secure good players was agreed upon. The teams in the league will include some of the best players in the defunct Atlantic League.

The season will begin April 1st, 1900, and end Labor Day week.

ARRIVES AT GUAM.

Washington, Sept. 14.—Captain Leary, the Governor General of the Island of Guam, has reported his arrival at his post on the steamer Yosemite under date of August 7th. The collier Brutus and the surveying ship Nero arrived at the same island August 13th and September 7th respectively.

THE RESULT OF A DRUNKEN BRAWL

Hudson Tells the Story of the Crime.

BINKLEY SHOT BY REED

ABOUT TO PULL HIS GUN WHEN REED FIRED.

WHEN BINKLEY FELL THE OTHERS FLED

Hudson Desires to Turn State's Evidence. When Arrested he had \$180. Letter from his Mother Urging him to Tell All.

Winston, N. C., Sept. 14.—(Special.)—Thomas Hudson, one of the three men who were committed to jail yesterday, charged with being responsible for the death of Mr. D. Binkley, of Yadkin county, sent for a lawyer today saying he wished to make a confession. Solicitor Griffith went to the jail with Hudson told the whole story. He said Thomas Reed shot Binkley; that they engaged in a fight when Binkley threw one hand to his hip pocket, whereupon Reed fired and Binkley fell. They did not stop to see how bad he was shot. Hudson says they were all drinking. He admitted he made a mistake by not telling the whole story on the witness stand yesterday. In showing me a letter from his mother, the prisoner wept. She told the son to tell the truth as to the murder.

Hudson said to the solicitor he wished to turn State's evidence and asked to be released, but this is not probable, as he is the most important witness. An officer said today that when arrested he had over \$180, Bob Cobler about six-tenth dollars. Hudson had very little money. It is known that Binkley had as much as \$41, if not more when he was shot.

TILLMAN'S NEW COMPANY.

It Will be Composed of Indians and South Carolinians.

Washington, Sept. 14.—James H. Tillman, a son of Ex-Representative Tillman, of South Carolina, and who served as Colonel in the Second South Carolina volunteers in the Spanish war, has been promised by the President a Captaincy in one of the new volunteer regiments. Colonel Tillman came to Washington hoping to raise an independent company of scouts. The President did not approve of forming any independent commands at this time, but said there was no objection to enlisting a certain proportion of Indians in a company which he authorized Captain Tillman to organize.

A. A. Girard, formerly of the Rough Riders, has been named as First Lieutenant of Captain Tillman's company.

One platoon of the company will be composed of educated Indians, leading men of the Chippewa, Nez Perce and other tribes. Chiefs Joseph and Pu-ah-Ma-Gi-Shing of these tribes are much interested in the work and have been in Washington with Captain Tillman. The remaining platoons will be composed of South Carolinians. Recruiting stations will be opened in South Carolina and St. Paul, Minn. Already enough men to fill a regiment have applied, so the question of personnel is only one of selection. Captain Tillman was the youngest colonel in the Spanish war.

THE TARTAR IS RELEASED.

Washington, Sept. 14.—Clearance papers have been allowed the Tartar at Hong Kong. It is expected that she will proceed to the United States at once. The information that clearance had been allowed came in a dispatch to Adjutant General Corbin this morning from Colonel Metcalfe, commanding the Twentieth Kansas, and the troops aboard the transport. Another dispatch from Colonel Metcalfe, in reply to one sent yesterday, states that the Tartar was no more overcrowded and that the food was as good as on other transports leaving Manila. He said that the trouble arose among the discharged regular soldiers who were returning home on board the ship.

The incident is now regarded as closed.

TROOPS COMING HOME.

Washington, Sept. 14.—The Adjutant General received the following dispatch from General Brooke today:

"Havana, September 13th. 'Adjutant General, Washington. 'Depot battalions First and Eighth Infantry leave for States on Bufort tonight. The Second and Tenth Infantry will return on McPherson, which left New York ninth; the Fifth Infantry is ready to move as soon as transport arrives; expected on 12th.

(Signed) "BROOKE, Commanding"

FILIPINO POLICE ON DUTY.

Manila, Sept. 14.—6:05 p. m.—The Filipino police numbering 250 men armed with revolvers and clubs became operative at Manila today. The force is controlled by the provost marshal and was reviewed on the Luneta.

CAPTURE OF A SCHOONER.

Commander of the Paragary Reports a Hot Engagement With the Foets.

Washington, Sept. 14.—The following dispatch has been received at the Navy Department:

"Manila, Sept. 14th. 'Secretary of the Navy, Washington: 'Davidson, commanding Paragary, reports sharp engagement at Balemao. Vessel struck many times rifle shots; no casualties. Paragary silenced insurgents' fire in twenty minutes; range from 400 to 900 yards. Occasion capture Filipino schooner which Davidson destroyed. (Signed) "WATSON."

Balemao is in the Province of Masbate, south of Luzon and north of Visayas.

THEY WISH OUR PROTECTION.

Washington, Sept. 14.—Mail advices received at the War Department from Manila state that the natives of the island of Samar are praying for the speedy arrival of the Americans and will welcome the hoisting of the American flag. It is said that as a result of the forcible collection of taxes by emissaries of the insurgents, who take all they have, the natives are in a state of semi starvation. They have no faith in the Tagalos, and they earnestly desire American protection. An insurgent leader, General Lucban, has bolted to Japan, taking with him \$2,600 collected by him for the insurgents. The agents of the insurgents endeavor to compel the natives to join their forces, which they will not do. The condition of the island is rapidly approaching riot and anarchy as the heavy and continued drag upon them in the form of tribute exasperates the natives and they threaten desperate resistance if it continues.

MANY CRUSHED TO DEATH

THIRTY-TWO PEOPLE KILLED IN A POLISH SYNAGOGUE.

Overturning of a Lamp Created a Panic Which Resulted in the Tragedy, Victims Women and Children.

Berlin, Sept. 14.—Advices from Kalisch, in Russian Poland, say that thirty-two persons were crushed to death in a panic in a synagogue there, caused by the upsetting of a lamp. The victims were all women and children. Many others were injured.

CROKER LAUGHS AT THEM.

The Ramapo Water Company Under Investigation by Mazet.

New York, Sept. 14.—The Ramapo Water Company, the corporation anxious to obtain the \$200,000,000 contract with the city of New York was the subject, under investigation by the Mazet investigating committee today. Mayor Van Wyck while on the stand intimated that Mr. Moss was anxious for a nomination for a position on the Supreme Bench. He said he would not act on the Ramapo Water case until it came before him officially. The mayor added that Mr. Moss seemed to think that Silas B. Dutcher, Levi P. Morton and General Tracey were a "pack of thieves." This was the first time ex-Governor Morton's name has ever been connected with the Ramapo Company, and Mr. Moss pressed Mayor Van Wyck for the purpose of ascertaining what the chief executive of New York city knew about the stockholders in the corporation possessed by the former chief executive of the State. He was unable to obtain any definite information, in fact when closely interrogated by Mr. Moss the mayor retorted: "None of your business," while Richard Croker under similar pressure replied: "That is my private affair." Asked by Mr. Moss if he did not consult a judge of the Supreme court as to whether he was bound to obey a Mazet committee subpoena, Mr. Croker replied: "Go, sir, you're dreaming."

Little important information could be obtained concerning the Ramapo Company. One of the most significant statements was that made by Edward Lauterbach, who responding to interrogations informed the committee that he had endeavored to obtain the consent of the stockholders to the publication of their names and that by Monday next he hoped to have the necessary consent. He was given until Tuesday to produce the names. Hugh McLaughlin, the Democratic leader in Brooklyn was questioned concerning the private water companies of Long Island, attempted municipal legislation in greater New York affecting these corporations and the resultant reactionary effect of such proposed legislation upon the relations between the Democratic leaders of Kings county and Tammany Hall in general and the Ramapo Water Company in particular.

FROM LYONHURST TO NIAGARA.

This Excursion Marks an Epoch in S. S. Excursions in the South.

Lynchburg, Va., Sept. 14.—The departure of the excursion of Court street Methodist Sunday School for Niagara Falls this morning marks an epoch in Sunday School excursions in the South if not in the United States, in view of the magnitude and success of the undertaking. The train was in two sections, in all seventeen passenger coaches, two dining cars and a baggage car, and 838 passengers were aboard. Caterers, doctors, dentists and two score of committeemen were aboard to look after the comfort of the tourists. They will remain at Niagara twenty four hours and reach home Saturday night.