SECTION ONE---Pages 1 to 8.

The News and Observer.

VOL. XLVII. NO. 36. RALEIGH, NORTH CAROLINA, SUNDAY MORNING, OCTOBER 22, 1899. PRICE FIVE CENTS

THE STATE'S "SLAVE PEN" AND SUMMERELL'S "MISTAKE"

"A Story That Reads Like a Chapter on the Horrors of the Russian Prisons in Siberia."

"MORE BRUTISH THAN THE WORST OF HIS CONVICTS"

"And Those Who Condone Such Things are Unfit for the Management of the Public Business"--"Isn't it Time That the Christian People of the State Demand That There be Justice to the Men Who are Cut Off from Appeals to the Courts and the Public?"

By REV. J. D. HUFHAM, D. D.

To the Editor: The News and Observer has been publishing some of the corruptions and brutalities of the slave-pens commonly known as the State farms. It is not pleasant reading to a man who loves his State and wants to be proud of his people. Indeed it is difficult to believe that the things related really form a part of the history of North Carolina.

It reads more like a chapter out of Kennan's book on the horrors of the Russian prisons of Siberia. And there is no uncertainty about the things which have been published: they were told to a committee appointed by the Legislature to collect information and make report.

There are several of these State farms lying along the Roanoke. On one of them three of the men sent out to work in the coldest weather of last winter were frost-bitten in their hands or feet and amputation became necessary. At the same time there was no work on the neighboring plantations because the laborers refused to do it. The prisoners on the State farm were driven to it. When the overseer was confronted by the committee he did not deny the facts, but said he made a mistake: he did not know the weather was so cold. And now the Directors of the Penitentiary have said that the man simply made a mistake: it was unintentional. Do they expect any rational man to believe that? He is retained in office though another winter is on us.

The man who makes such mistakes is unfit to be trusted with the lives or comfort of other men. And those who condone such things are unfit for the management of public business.

On this same farm one of the prisoners came to his death at the hands of one of the subordinates of the overseer. Of this he also said it was a mistake. Will the Directors also agree with the overseer in this and say it was only a mistake? The blood grows hot as one thinks of such brutality on the part of the officers of the slave-pen and of the callousness of the officials who are over them.

On one of these farms it is stated that two men were shot though they were neither making resistance nor seeking to escape. Was this also a mistake? Will the Directors thus define it?

A man's character may always be known by his attitude towards the helpless who are in his power. The official who, with absolute power in his hands, is needlessly coarse and rigorous towards the prisoners in his keeping is more brutish than the worst of the convicts who suffer at his hands.

Flogging in our navy was long since abolished. The whipping-post disappeared from the penal machinery of this State a quarter of a century ago or more. It was abandoned as an inhuman thing. But the whipping-post was benevolence itself as compared with what takes place on these farms. Under the old system the number of strokes was carefully prescribed by law and the punishment was inflicted in public so that there might be no peril of life or risk of injury to the person of the convict. In these modern slave-pens all is different. The whips have been described to us. One of them was a piece of buggy-trace attached to a handle which was a deadly weapon easy to kill a man with it. Another of these whips was a wide thong of sole-leather attached to a similar handle. So far as I know there is no limit to the number of the strokes or whippings save the will of overseers who are sometimes ignorant and passionate, sometimes drunken men. The naked bodies of men and women are scourged with the instruments of torture which have been described above. It is the common punishment. On the Roanoke farms it is stated that 50 per cent. of the prisoners are whipped; at the Central Prison, Raleigh, 30 per cent. There is no inspector of prisons to make investigation and give information to the people. There is no public looking on, to hold in check the violence of the overseer or his subordinate.

The thud of the whip and the cries of the sufferer do not reach the outer world: they fall only on the ears of men like themselves who may at any moment be subjected to the same torture. Around are guards, armed with repeating rifles; outside are blood-hounds if they escape from the pen. Is it wonderful that the prison authorities of the United States declined to send any more convicts into a State where such a system of prison discipline prevails?

Under such a system there would be some mistakes and some needless suffering with the wisest and best men in charge. It is unthinkable what must take place when the officials are past-masters in the business of profane swearing and the rest of their equipment is of a similar character. Members of the Legislature's committee have said that some abuses which they discovered were unfit to be published. We may well believe it from what we already know. And the Superintendent seems to think that all is well and a majority of the Directors with him. "A mistake," sems to be a sufficient explanation and excuse for every act of cruelty and wrong; and things go on.

This in a State where in many sections the churches are only four miles apart. These people will awake sometime and call the authorities and their subordinates who perpetrate such outrages to a just reckoning.

Our whole system of prison discipline needs revision. At present the instruments relied on are the rifle, the blood-hound, the whip: this last as cruel as the Russian knout of some years ago. Isn't it time that the Christian people of the State demand that there be justice to the men who are cut off from appeal to the courts and the public, and under the control of men who are absolute masters?

(Signed) J. D. HUFHAM,
October 21, 1899. Henderson, N. C.

ALL THINGS READY

The Fair, Carnival and Horse Show at Winston.

SOME NOTABLE RACING

SOME HORSES AT THE STATE FAIR ALREADY SHIPPED TO WINSTON.

GEN. JULIAN S. CARR CHIEF MARSHAL

Racing Program. If the Weather is Good the Event Will be a Great Success. Special Trains and Low Rates.

Winston, N. C., October 21.—(Special.)—"With fair weather we will have a great time at the Fair, Carnival and Horse Show which begins next Tuesday," said Secretary Garland E. Webb today.

The finishing touches are being put on the grand stand, and when the band begins to play on Monday morning, our visitors will see one of the finest up-to-date Carnivals, Fairs and Horse-Show ever seen in the State.

Horses have already begun to arrive and a car load of the best horses that trotted at the State Fair in Raleigh will be here. While other exhibits will be great, the Horse Show will make the fair unique, for the noble horse will be the great attraction.

The list of premiums offered have attracted a large variety of exhibits. The railroads have given reduced rate (the return rate, with admission to the Fair from Raleigh is $3.85).

General Julian S. Carr accepted the pressing invitation tendered him to act as Chief Marshal, and will be here Monday with a staff of handsome and popular gentlemen, and the social features of the Fair will make the week full of pleasure. Many of the belles of the State are already here and many others will come Monday.

RACING PROGRAMME.

The racing programme has been announced as follows:

Tuesday, October 24.—1. Four-wheel vehicles—horses must be driven by owner. Only amateurs allowed in race. 1st premium—handsome buggy. 2nd premium—set harness.

2. 2:28 class, trot—Purse, $200.

3. Running ½ mile heat, (2 in 3)—$50.

Wednesday, October 25.—4. 2.50 class trotting and pacing—Purse, $200.

5. ¾ mile heat, running, (2 in 3)—$100.

6. 2:25 Class, trotting—$200.

Thursday, October 26—7. 3:00 class, pace and trot, (Forsyth county horses) horses owned in county 60 days prior to date of meeting—Purse, $75.

8. ¾ mile heat, running, (2 in 3)—$50.

9. 2:18 Class, trot and pace—$300.

Friday, October 27.—10. 2:30 Class, trot and pace—Purse, $200.

11. Pony race, ½ mile dash—$25:

12. Running 5-8 mile (2 in 3)—$50.

A Valuable Gift.

(Windsor Ledger.)

Mr. Francis D. Winston has presented Wake Forest College with an interesting book called "Our Four-fold Nature." It belonged to Rev. Lemuel Burket, a Baptist minister who more than a hundred years ago was a great preacher among our people. The book was published in Edenburg in 1769. This is a very interesting book. Lemuel Burkett married Miss Prudence Collins, who was Mr. Winston's great aunt. We believe he married two sisters. Mrs. J. B. Stokes is named for her, and was her mother, Mrs. Jonathan S. Tayloe.

Always let well enough alone—when you can't do better.

THE SOUTH AND THE NEGRO.

(New York Tribune.)

To the Editor of The Tribune.

Sir: My attention has been called to the editorial in your issue of the 12th instant, under the title, "The South and Negro Suffrage," in which you say:

"It would be equally fortunate for all sections of the country if schemes to abolish negro suffrage, such as that in contemplation in North Carolina, or that in actual operation in Louisiana, Mississippi and South Carolina, could be brought in the near future to a deliberate and thorough constitutional test."

You have no doubt overlooked the case of Williams vs. State of Mississippi, reported in 170 U. S. Supreme Court Reports, page 213 et seq., wherein the validity of the suffrage provisions of the Mississippi Constitution was expressly affirmed. Those provisions may be briefly stated. Every male inhabitant is a qualified voter who is a citizen of the United States twenty-one years old and upward; who has resided in the State two years and in the election district, or in the incorporated city or town in which he offers to vote, one year; who has never been convicted of certain designated crimes; who has paid on or before the first day of February of the year in which he offers to vote all taxes which may have been legally required of him, and which he has had an opportunity of paying according to law, for the two preceding years, and who shall produce to the officers holding the election satisfactory evidence that he has paid such taxes; who is able to read any section of the Constitution of the State, or understand the same when read to him, or give a reasonable interpretation thereof, and who has been duly registered more than four months before any election at which he offers to vote by an officer of the State legally authorized to register the voters thereof. The Constitution of the State provides that no person shall be a grand or petit juror unless he is a qualified elector. Henry Williams, the plaintiff in error in the case cited, was indicted for murder and convicted. The suffrage provisions of the Constitution of Mississippi were drawn into his case through the requirement that grand and petit jurors must be qualified electors.

The court, speaking by Mr. Justice McKenna, said:

"Besides, the operation of the Constitution and laws is not limited by their nature of effects to one race. They reach weak and vicious white men, as well as weak and vicious black men, and whatever is sinister in their intention, if anything, can be prevented by both races by the exertion of that duty which voluntarily pays taxes and refrains from crime. It cannot be said therefore, that the denial of the equal protection of the laws arises primarily from the Constitution and laws of Mississippi. There is an allegation of the purpose of the convention to disfranchise citizens of the colored race, but with this we have no concern, unless the purpose is executed by the Constitution or laws or those who admiinster them."

In the case of Ratliff vs. Beale, 74th Miss., page 247, the Supreme Court of Mississippi, in passing upon the question as to whether property exempt from taxation could be distrained to coerce payment of a poll tax due from the owner, for the purpose of discovering the sense in which the word "lien" was used in the Constitution, felt called upon to discuss the conditions under which the Constitutional Convention of 1890 assembled and framed the Constitution promulgated in that year. Among other things, it said:

"Not only in this State, but throughout our sister States, thoughtful and anxious men turned upon the solution of the question all the light to be gathered from history or speculation. Our unhappy State had passed in rapid succession from Civil War through a period of military occupancy, followed by another in which the control of public affairs had passed to a recently enfranchised race, unfitted by education and experience for the responsibilities thrust upon it. This was succeeded by a semi-military, semi-civil, uprising, under which the white race, inferior in number, but superior in spirit, in governmental instinct and intelligence, was restored to power. The anomaly was then presented of a government whose distinctive characteristic was that it rested upon the will of the majority being controlled and administered by a minority of those entitled under its organic law, to exercise the electoral franchise. The habitual disregard of one law not only brings it finally into contempt, but tends to weaken respect for all other laws. The most dangerous and insidious form in which this evil can exist is that which manifests itself in the disregard of public rather than of private right; for not only are the consequences more widely diffused and less rapidly eradicated, but because no particular right of individuals is directly involved resistance is less prompt and the evil progresses to dangerous proportions before its existence is noted. Not only was the question of the franchise a most difficult one for solution by reason of its nature, but there was added to its treatment the limitations upon State action imposed by the amendments to the Federal Constitution.

"The difficulty, as all men knew, arose from racial differences. The Federal Constitution prohibited the adoption of any laws under which a discrimination should be made by reason of race, color or previous condition of servitude. Within the field of permissible action, under the limitations imposed by the Federal Constitution, the convention swept the circle of expedients to obstruct the exercise of the franchise by the negro race. By reason of its previous condition of servitude and dependence, this race had acquired or accentuated certain peculiarities of habit, of temperament and of character which clearly distinguished it as a race from that of the white—a patient, docile people, but careless, landless and migratory within narrow limits, without forethought, and its criminal members given rather to furtive offences than to the robust crimes of the whites. Restrained by the Federal Constitution from discriminating against the negro race, the convention discriminated against its characteristics and the offences to which its weaker members were prone. It is evident, therefore, that the Convention had before it for consideration two antagonistic propositions—one to levy a poll tax as a revenue measure and to make its payment compulsory; the other to impose the tax as one of many devices for excluding from the franchise a large number of a class of persons, which class it was impracticable wholly to exclude and not desirable wholly to admit. In our opinion the clause was primarily intended by the framers of the Constitution as a clog upon the franchise, and, secondarily, and incidentally only, as a means of revenue."

Here you will see there is a plain and unequivocal judicial finding by the highest court of the State that the suffrage provisions of the Constitution were framed for the express and avowed purpose of limiting negro suffrage as far as possible within the bounds of the Federal Constitution. The Supreme Court of the United States in the Williams case, after quoting from this opinion of the Supreme Court of Mississippi, said:

"But nothing tangible can be deduced from this. If weakness were to be taken advantage of, it was to be done "within the field of permissible action under the limitations imposed by the Federal Constitution," and the means of it were the alleged characteristics of the negro race, not the administration of the law by the officers of the State."

After fully considering the Williams case it was affirmed.

The Constitution of Mississippi was not submitted to the people for ratification or rejection, but was directly promulgated by the convention. It was urged before the Supreme Court that the Constitution was invalid because it had not been submitted to the people for ratification or rejection, but this point, being purely fanciful, was ignored. It was also pressed upon the court that the franchise provisions of the Constitution were void for the reason that they violated the terms of the act of 1870 under which the State was readmitted to representation in Congress. I have not that act before me, but in substance it made it a fundamental condition upon which the State was readmitted to representation that the franchise provisions of the Constitution of 1869, known as the Reconstruction Constitution, should not be altered, except as to its limitations regarding residence, without the consent of Congress. This point was also completely ignored by the Supreme Court of the United States, upon the ground, no doubt, that the readmission act of 1870 in this respect was clearly unconstitutional.

T. C. CATCHINGS.

Vicksburg, Miss., Sept. 19, 1899.

NOTES FROM TRINITY.

The representatives from Trinity at the debate between Wake Forest and Trinity will be Messrs. S. H. Stewart, S. S. Dent and Jno. M. Flowers. This debate will be held Thanksgiving evening in the Academy of Music in Raleigh.

The work on the new dormitory building at the High School is progressing rapidly. It is four stories high, and its arrangements are all complete, several elegant suites of rooms are provided. All the rooms at the High School are now taken, and the new building will be occupied as soon as it is completed.

The cottage being built for Mr. Whitehouse, Director of the Gymnasium, will soon be completed.

Mr. P. H. Hanes, Jr., of the Senior class, is a Marshal of the State Fair, and will also be one at the Horse Show at Winston.

The Freshman class has organized and elected the following officers: President, E. W. Crawford; Vice-President, B. F. Dixon, Jr., Secretary, C. E. Egerton.

Mr. Chas. E. Turner, class '91, secretary of the Alumni Association, and a member of the Durham Bar, is very sick at his home in Durham. He has been in bad health for some time.

Dr. B. F. Dixon, of Shelby, and Mr. S. J. Durham, of Bessemer City, are on a visit at the Park.

OF IMPORTANCE TO POLICY HOLDERS

A Decision as to Assessment Insurance Companies.

COURT REFUSES RELIEF

CAN NOT INTERFERE WITH COMPANY'S INTERNAL AFFAIRS.

WHEN IT IS A FOREIGN CORPORATION

Even Policy Holders in a Mutual Company a Member of the Corporation, Can Get no Relief from Excessive Assessments.

A decision of considerable importance as affecting policy holders and members of assessment insurance companies was handed down in the Supreme court this week, Justice Montgomery writing the opinion. The case was that of J. J. Howard vs. Mutual Reserve Fund Life Association of New York.

J. J. Howard insured his life in this company, received a certificate of membership and agreed to pay the admission fee, dues for expenses and mortuary assessments. A by-law of the company embodied in the policy of Howard declared: "Whenever the death fund of the association is insufficient to meet any existing claims by death an assessment shall be made upon the entire membership in force at the date of such death for such a sum as the directors shall have established and published, according to the age of each member," and by another by-law in force at the time, plaintiff became a member of the association assessments for each member were fixed, that of plaintiff Howard being $2.10 for each $1,000 of insurance. Up to June 12th, 1895, assessments were levied and collected on plaintiff at these rates but at that date and again in January, 1898, the directors greatly increased plaintiff's assessments and those of all others who became members before 1890, but did not increase the assessments in a proper notice of those who became members after 1890. The amount collected from Howard in excess of the agreed notes was $155.65. Plaintiff brought action to secure judgment for this amount and asked that the company be restrained from collecting further assessments in excess of that considered legal.

In the lower court the defendant company demurred to the action on the ground that the amount was less than $200, and thee ourt therefore did not have original jurisdiction; that the facts cited in the complaint did not constitute a cause of action because the plaintiff being a member of a foreign corporation sought to have the court to interfere with the internal management of its affairs without exhausting his remedies within the corporation, because the court could not enforce its injunction against defendant, and because the plaintiff had an adequate remedy at law. The demurrer also cited that the court had no jurisdiction of the subject matter of the cause. All these contentions the lower court sustained.

The Supreme court holds that the lower court did not have original jurisdiction and says that while money paid to a public officer under protest can be recovered there is no law to recover where "money is paid upon demand of another with full knowledge of all the facts."

The court sustains the lower court that a State court can not afford equitable relief by injunction even to one of its citizens, who is a member of a foreign corporation, by an order commanding the corporation to do or not to do certain specified acts connected with the internal management of its corporate affairs. Such matters fall within the exclusive jurisdiction of the courts of the home State of the corporation. Section 3662 of the Code the court says does not cover the case because it can give no jurisdiction over the officers of the corporation who are citizens of another State. The opinion of the Maryland court is cited, 42 Atlantic Rep. 944.

The court says to undertake to grant the relief asked would require the court to undertake to investigate and control the management of the foreign corporation. Plaintiff is a member of the corporation and complains of his treatment as such and not as an individual citizen of the State, and there being no fraud the court holds it is powrless to interfere. If there had been fraud, which was not alleged, the court could have interfered as also if defendant had declared the policy fortified.

The court says finally: "But the subject matter and the officers of the defendant corporation are beyond the jurisdiction of our courts in this case, and the remedy sought is not in our power to grant. We have not found it necessary to consider the other grounds. The judgment of the court below in sustaining the demurrer is affirmed."

The prayer of plaintiff to amend his complaint on the ground that the defendant company has become a domestic corporation since the action was begun was denied because it involved "questions of fact and a matter of law entirely foreign to the case as made up on appeal."

Simmons, Pou and Ward appeared for the plaintiff and Shepherd and Busbee and J. W. Hinsdale for defendant.