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VE CENTS

DAILIES IN GAROLINA NEWS

THE DEAD HAND OF THE PAST DENIES RIGHTS OF LIVING

So Says Justice · Clark of Hoke v. Henderson.

IN THE CASE OF ABBOTT V. BED-DINGFIELD FOR RAIDROAD COMMISSIONERS.

HIS MASTERLY OPINION DISSENTING FROM COURT

THE OPINION VIOLATES CONSTITUTION

the Interpretation of the U.S. Constitution, That Court Having Held That Tenure of Office Is Not a Contract.

The Supreme Court yesterday, in an opinion printed elsewhere, decided that the act of the last Legislature abolishing the Railroad Commission and creating the Corporation Commission, with new powers and duties, in its place was unconstitutional because it deprived D. H. Abbott of his office as Railroad Commissioner.

From this opinion of the court Mr. Justice Walter Clark, in the masterly opinion given below, dissented. Judge Clark contends:

1. That the constitution confers upon the Supreme Court no power to nullify or set aside an act of the Legislature, but that on the contrary it expressly forbids its use of any such power.

2. That the decision of the court is based upon the clause of the Federal constitution which forbids any State to pass a law "impairing the obligation of a

3. That the Supreme Court of the United States has repeatedly held that the tenure of an office is not a contract with the State, that the Legislature will or remove the incumbent unless expressly prohibited by the State constitution; and therefore that the Supreme Court of the State in holding to the contrary is refusing to accept a ruling of the United States Court as to the interpretation of the United States constitu-

4. That the ruling of the court is admittedly based on Hoke v. Henderson, which was decided seventeen years be fore the United States Supreme Court held that tenure of office is not a contract and that to abolish an office or remove the incumbent is not to "impair the obligation of a contract."

5. That the ruling of the court is con trary to that of every other State court and to the highest legal authorities. Judge Clark further points out that Hoke v. Henderson is contradictory in its terms and that as interpreted by the present court it amounts to a usurpation of power similar to that which pro duced the revolt in England against the tyranny of the Stuarts. The opinion is as follows:

The bill of rights of the freemen of North Carolina (Constitution art. 1, sec.

"All power of suspending laws or the

execution, of laws, by any authority without the consent of the representa tives of the people is injurious to their rights and ought not to be exercised." This copied verbatim from the great bill of rights of 1868 and summed up

in four and a half lines, the result of two great struggles carried on by our ancestors in England to maintain the right of the people to place their will on the statute book and have it executed without hindrance or permission of any authority whatever. In those great struggles the people triumphed; one king lost his head, and his son not profiting by his example lost his kingdom, and his discendants to the last generation were wanderers and aliens in the earth. The result summed up by Lord Somers in the above terse lines were placed in the people's magua charta, and have been retained by us as a memorial, like the twelve stones set up by the twelve tribes at the crossing of Jordan, of the sufferings the terrible wildnerness through which our fathers passed, that the people should enjoy the privilege of making their own laws and managing their own affairs in their own way. It is also a warning to all in any authority that the will of a free people is the suprem law, and that none shall interfere with Mrs. Dewey Transfers Her Title to the the execution thereof. It would be to small advantage if the power to nullify and suspend or set aside the execution of the laws" without the consent of the representatives of the people" was taken at such cost from the king with the judges to aid him, if the judiciary can now construe that they possess that power which was expressly denied when attempted to be exercised by them in conjunction with the executive. The heart still beats with emotion at the memory of the trial of the 7 bishops when the judges conspired with the king to punish the defendants for having protested against the right of the king to stop the execution of laws passed by the representatives of the people—we still feel a appointed consul at Algiers, Africa, glow of pride over that sturdy English vice C. T. Grellet.

king and judges, and saved to the English speaking race the right to make their own laws and to have them executed. That the people of North Carolina never intended to give this power to the judges, which our ancestors had denied to the king and his judges, is further evidenced by the 8th section of the Bill of Rights, "The legislative, executive and Supreme judicial powers of the government ought to be forever separate and distinct from each other.' A more complete inhibition upon the courts against their interfering with the acts of the legislative department by annulling them or setting aside their execution, could not be penned.

Section 2 (of the Bill of Rights) reads The people of this State have the inherent, sole and exclusive right of regu lating their internal government and police thereof, and of ordering and abolishing their constitution and form of government whenever it may be necessary for their safety and happiness; but every such right should be exercised in pursuance of law, and consistently with the constitution of the United States."

The Courts Forbidden to Interfere.

In the nature of things "regulation of internal government" and the expression of the peoples' will can only be made by legislation, and what that legislation shall be depends on the legislature. No power is anywhere conferred upon any And Overrules the U. S. Supreme Court Upon authority to stay their action, but there is express prohibition. There are limitations in the constitution, upon the power of the legislature, but none as to abolishing offices or changing the incumbents, except as to officers named expressly in the constitution. That such hould be named and the legislature for bidden to interfere with them is a recognition that, as to all other officers, the (Continued on Sixth Page.)

All Georgia Athrill Over the Battle's Outcome.

he Willingham Bill Providing for State Prohibition Creates the Greatest Excitement Known in the Georgia Assembly.

Atlanta, Ga., Nov. 21.-The greatest excitement known in the General Assembly of Georgia for years has been caused by the debate over the Willingham Bill for State prohibition. The bill has been pending since the beginning of the session, several weeks ago, but the debate was not commenced unmay abolish or change an office at til today. A vote will be taken at 11:30 tomorrow. A dozen amendments have been offered since the first reading of the bill. The fight has become one involving every section of the State. The ministers of various denominations and the State Prohibition Society have taken an active part. Personal letters have been written by the presidents of six Georgia colleges to the members of the Legislature, asking the passage of the bill. Mayor Woodward, of Atlanta, recently addressed a letter to the mayors Savannah, Augusta, Macon, Rome and Columbus requesting them to come here and protest against the passage of the bill, which they did. People from all sections of the State were in the galleries when the debate opened today, among them being many ladies and several classes of school children from the city public schools, who came to lend their moral support to the passage of the measure. The debate continued all day. and at times the speakers grew very bitter in their arguments against the prosing sides.

Representative Willingham says he is confident the bill will pass.

DEMOCRATIC COMMITTEE.

It Adjourns After a Erief Session. The Chicago Platform.

Chicago, Nov. 21.-The Democratic National Executive Committee after a brief session today, adjourned sine die to meet at the call of Vice Chairman It was practically agreed among the members of the committee that a meeting of the body will be held every sixty days and no session probably will be held before January.

The entire matter of the place and date of the national committee meeting was placed in the hands of Chairman Jones, who will issue the call. date in January is favored with Washington as the place of meeting. Chairman Jones will leave for Washington temorrew.

The sentiment of the members of the committee was unanimous that the Democraic National Convention will endorse the Chicago platform in its entirety and that anti-trust and antilimperialistic planks would also be adopted.

IT NOW BELONGS TO DEWEY'S SON

Home to Him.

Washington, Nov. 21.—George Goodwin Dewey, Admiral Dewey's only son, is now the owner of the residence presented to the Admiral by the American

This transfer was made in accordance with the wishes of both the Admiral and his wife. The transfer to her yesterday was but the first step in the plan. Through the method adopted no dispute ean ever arise over the property. The Admiral and his wife will still make the Mace their home.

David S. Kidder, of Florida, has been

SHOELESS AND IN RAGS THEY MARCH

by Lawton's Column.

SICK MEN DROP OUT AND ARE PRESIDENT, CABINET AND OTH-LEFT BEHIND.

the Filipino Government, and Is Endeavoring to End the War at Once.

Manila, Nov. 21.-6:05 p. m.-The whereabouts of Generals Lawton and Aguinaldo's. The belief is beginning to has struck the trail of the insurgent "government" and is pursuing the Ministers into the Binquet Mountains. It has been his ambition to capture the Filipino leaders and he and General Young believe that a cavalry brigade, living on the country could run them down to any part of the island. One vague report brought by Spanish pris-oners is that Aguinaldo and others were nearly surrounded by Americans soon after the insurgent chief left Tarlac, but that he escaped through the lines in peasant's clothes.

Officers and soliders at Cabanatuan from General ing their way back across the ferrible roads. A number of horses were dying, and many of the soliders, and even some of the officers, were marching on, half naked, their clothes having been tora to pieces in getting through the jungles. Some of them were reduced to breech clouts and hundreds were barefooted, their shoes being worn out, and all were living on any sort of provis-ions. Bread was rare and carabo meat and bananas were the staples. General Lawton foresaw that the cam-

paign would involve such hardships, but he considered it the quickest and cheapest way of ending the war.

NOT RUN BY THE SOUTHERN.

The Georgia Central an Independent Road, President Spencer Declares.

Macon, Ga., Nov. 21.—President Samuel Spencer, of the Southern Railway, was the star witness today in the hear ing of the injunction suit of certain Macon merchans against the Southern The most important and surprising statement made by Spencer was that his road did not own a dollar's worth of stock in the Central railway Georgia and mever had; that his holding consisted of one share of stock which was necessary to qualify him as

In reply to a question regarding a speech he had made in Savannah, which he assured the people that they had nothing to fear from the Southern's ownership of the Central, he said that the statements had been made at a time when a deal was pending which he felt justified them, but the deal had fallen through.

Asked whether he did not really dictate the policy of the Georgia Central, he replied that he did not. - President Comer sometimes acted on his advice, but frequently did things against his vigorous opposition.

Mr. Spencer stated that his owned 12,000 of the 27,000 shares of the Georgia Southern and Florida stock, but admitted that while a minority stockholder, by an alliance, the Southern did control the road and he was in a position to dictate its policy. The South-Georgia Midland and Gulf. It owned the bonds of the Macon and Birmingham and expected ultimately to control These roads, he main the property. tained, were not competing lines in the meaning of Georgia legislation.

The policy of the Southern was not to buy up competitors, but to secure control of such lines as would supplement and round out the system. The result of this policy, he claimed, was not to diminish competition, but to build up the properties secured and to develop the territory they covered.

Some evidence was taken showing good effect of the Southern's develop-ment on local conditions at Macon and the hearing was adjourned. A date will be fixed tomorrow for the taking of further testimony.

Mr. Spencer and Mr. Francis Lynde Stetson left for the north tonight.

An A. C. L. Short Cut.

Washington, Nov. 21 .- On and after December 1st the Atlantic Coast Line trains will run into Augusta, Ga., over the newly constructed branch road of that company. This new road runs from Denmark, S. C., via Barnwell to Robbins, S. C., there connecting with the Charleston and Western Carolina railroad, which is the property of the Atlantic Coast Line. By this arrangement a much shorter route is secured.

VICE PRESIDENT HOBART IS DEAD

Terrible Hardships Endured The End Came at 8:30 Yesterday Morning.

MANY HORSES ARE DYING HIS FUNERAL SATURDAY

ER OFFICIALS WILL ALDEND.

LIVING ON ANYTHING THEY CAN FIND NO SUCCESSOR PROVIDED BY THE LAW

It Is Believed That Lawton Is on the Trail of Senator Wm. P. Frye Becomes President Pro Tem of the Senate and Will Discharge All the Du ies of Vice President

in That Body.

New oYrk, Nov. 21.—Garrett A. Hobart, Vice-President of the United Young is becoming as mysterious as States, died at his home in Paterson, N. J., at eight thirty o'clock this morning. grow at Manila that General Lawton At his bedside were Mrs. Hobart and his son, Garrett A. Hobart, Jr., together with Dr. William K. Newton and his wife and Private Secretary Evans.

Mr. Hobart's death had been expected for some hours. The beginning of the end came yesterday afternoon when there was a sudden failure of the heart and soon after midnight last night Mr. Hobart became unconscious. He remained in that condition until

Mr. Hobart's death was due directly to angina pectoris, complicating myo

Owing to the prostration of Mrs. Hobart the funeral arrangements will not Lawton's force describe the paign as one of great hardship.

Many men dropped sick and were left shall be held in the Church of the Redeemer, at Paterson, and the interment deemer, at Paterson, and the interment describes to the shall be held in the Church of the Redeemer, at Paterson, and the interment describes to the shall be held in the Church of the Redeemer, at Paterson, and the interment Dr. Magee will preach the sermon.

The church can accommodate not more than 800 persons, and as thousands will be eager to attend the services, it was suggested that they be held in the armory, which will accommodate 10,000 persons. Mrs. Hobart wishes the funeral to be as quiet as possible, and there is little likelihood that the programme will be changed.

The mayor and aldermen of Paterson have suggested that the body lie in state at the city hall on Friday or Saturday morning, and this suggestion will probably be carried out. Among others who sent messages of

condolence were Sir Julian Pauncefote, the British Ambassador; Count G. De Lichtervelde, Envoy Extraordinary and Minister Plenipotentiary of Belgium; Count Cassini, Russian Ambassador Former Vice-President Stevenson, Ad miral Schley, Governor Voorhees, or New Jersey; United States Senator Sewall, of New Jersey; Senator Hanna, of Ohio; General Russell A. Alger Senator Foraker, Senator Fairbanks General Castillo, Civil Governor of Santiago, and Assistant Secretary of War Meilklejohn.

SKETCH OF HOBART'S LIFE. Washington, Nov. 21.—Garrett A. Hobart was born in 1844 at Long Branch, N. J. His ancesters on his father's side were English and on his

mother's side Dutch. Thirty-three years ago he was graduated from Rutgers College and began teaching school. months later he entered upon the study of law. Young Hobart is said to have arrived at Paterson with but a dollar and fifty cents in his pocket, and from this small beginning he made his way unaided to wealth and prominence. In 1869 he was admitted to the bar, and the same year married the daughter of Mr. Tuttle.

In 1871 he was made city counsel of Paterson, and in 1872 was elected to was chosen Speaker in the following

At the end of his scond year in the Assembly he retired to devote himself to the law and to the numerous business interests with which he had become iden tified. In 1876 he was elected to the State Senate, of which body he was chosen President in 1881.

From 1880 to 1891 he was at the head of the State Republican organization of New Jersey, and, as such, planned some the most brilliant campaigns con ducted by his party in the State. From 1884 to 1896 he was a member of the National Republican Executive Commit

During all these years his busines connections became broader and broader At the time of his election as Vice President he was a director in no les than sixty companies. Probably the greatest business honor which he at tained was his selection as one of the three arbitrators of the Joint Traffic Association, composed of thirty-seven of the most prominent trunk lines of the country. Through his business connec tions and his law practice he built up a large fortune. After his nomination and election to the Vice-Presidency he came to Washington and took up his residence in the old Cameron mansion adjoining the site of the historic old Seward house of Lafayette Square, where Blaine died. Socially the Vice President and his charming wife divided the honors with the President and Mrs. McKinley. Mr. Hobart left but one child, Garrett A. Hobart, Jr., a boy of 14. Fanny, a girl of 22, died in 1895 in Italy while there with her parents. Mr. Hobart was a popular presidin officer and a good parliamentarian. He was quick in disposing of business at his desk. His firm and impartial manwhile his genial and pleasant disposition made him one of the most popular men who ever filled the high office which his

death leaves vacant.

The law applicable to the Vice-Presi dency was enacted January 19th, 1886, by the Forty-ninth Congress. The main entures follow:

"Be it enacted, etc., that in the case

of removal, death, resignation or inability of both the President and Vice-President of the United States the Sec retary of State, or * * * Secretary of the Treasury, or * * * Secretary of the Navy, or * * * Secretary of the Navy, or * * Secretary of the Interior shall act as President until the disability of the President or Vice-Pres ident is removed, or a President shall be elected. The law further provides that when

one of the above Cabinet officers suc ceeds to the Presidency, he shall call a special session of Congress. A proviso limits the succession to those who would be eligible to the Presidency under the terms of the Constitution, and who have been appointed with the advice and con sent of the Senate.

The effect of the law is not to provide a succession to the Vice-Presidency out merely to ensure a succession to the

HOBART'S SUCCESSOR.

By the death of Mr. Hobart, Senaor William P. Frye, of Maine, becomes President pro tempore of the Senate, and will discharge all the duties of the Vice-President as presiding officer of the Senate. The Senate rules specifically provide that no election is necessary at the beginning of the session. Senator Frye accordingly will continue as preiding officer till the end of President McKinley's Administration, unless he (Continued on Fourth Page.)

Communication With That Place Now Broken

Heavy Firing There Saturday. Sounds of Battle South of Ladysmith. Mafeking Closely Invested. Kruger Turns Down Macrum.

Durban, Nov. 21.-Communication with Estcourt is interrupted.

GENERAL WHITE'S THREAD Estcourt, Natal, Monday, 20th.-Rumors of a glorious victory achieved by wounding one man, and frightening the General White Wednesday last are still women and children so badly that a mors of a glorious victory achieved by unconfirmed. Little credence is attached to them, and especially as the ru-mors added that General White had threatened to place many hundreds of prisoners in conspicuous places should the shelling of the town continue.

A Boer force occupies a position on the Mooi River, ten miles below the Mooi River station.

NAAUWPOORT (REOCCUPIED. Cape Town, Nov. 21.-The British troops re-occupied Naauwpoort

SOUNDS OF BATTLE HEARD. Pretoria. Nov. 21.-Via Lorenzo Marues.-Monday's report from General Joubert's headquarters, which was presented to the Transvaal Council of War today, says:

"Heavy gun firing was heard in the direction of Estcourt on Saturday, and train for Laredo with a detachment of continuous rifle firing is proceeding south Ladysmith.

"A small sortie from Ladysmith this morning was repulsed. The Transvaal heavy guns fired a number of shells into the town this afternoon."

SKIRMISH WITH BOERS.

Durban, Natal, Monday, Nov. 20 .-Seven hundred Boers from Weenen took up a strong position on the highlands thirteen miles south of Estcourt Sunday, occupying Turner's farm, northeast of the Mooi River. Major Thorneycroit, with a detachment of mounted infantry and the Estcourt Carbineers, engaged the Boers, of whom three were killed, including their commandant. The Boers withdrew, taking 200 head of cattle captured at Turner's farm. The main Boer force of Estcourt is reported to have retired.

brought and they are surely in the line

London, Nov. 22.-(Wednesday)-Late ast evening the War Office made public two dispatches from General Buller a Sape Town. The first had been received from General Clery, dated Monday, Norember 20th, and announced that three privates were wounded the previous day Mooi River. The second was from Colonel Baden-Powell, dated at Mafeking November 6th, saying:

"All well here. We have had a few uccessful sorties. Our loss is two offiers and seventeen men killed and four officers and twenty nine men wounded. The enemy's loss is heavy. It is numbers ere decreasing, but his guns remain and hell us, keeping out of the range of our Have had no news from small guns. Have had no new the outside since October 20th."

MACRUM CAN AID NO MORE. London, Nov. 21.-Callers at the United States Embassy today were informed that the United States was no longer able to forward messages or secure information regarding British prisoners,

President Kruger having refused the re-

quest to permit Consul Macrum to trans-

nit a list of British prisoners. It is understood that President Kruger bjected to Mr. Macrum on the ground that the United States' claims to neu trality were prejudiced by her evident friendship for Great Britain.

The motion to throw out the entire rote of Louisville, Ky., will be argued tomorrow before the county board canvassers.

NEGRO CAVALRY

PRI

Several Hundred Citizens Attack Fort Ringold.

SO SAYS THE COMMANDER

THE COUNTY JUDGE DECLARES TROOPS THE AGGRESSORS.

UNPROVOKED THEY FIRED ON THE TOWN

Further Trouble Feared. Gov. Sayers Orders Troops to the Scene Wiring Washington to Investigate and to Remove the Negro Soldiers.

Austin, Tex., Nov. 21.-Today Governor Sayers was in receipt of a telegram from the commanding officer of the United States troops at San Antonio conveying the information that there had been a race riot at Rio Grande City last night between the Federal negro troops stationed there and the citizens of that town. About the time this telegram was received another came from the county judge at that place, and they are somewhat confusing. The military commander at San Antonio, General McKibbin, telegraphs that the report he eceived from the commander at Fort Ringgold, near Rio Grande City, states. that all the troops were in the garrison last night at 7 o'clock when the citizens of that town advanced on the fort and fired upon the guard. The guard returned the fire, and the entire garrison was at once called to arms.

The citizens continued their fire on the fort and the soldiers returned the fire, and finally had to bring their Gatling guns into play to disperse the attackers. The commander states that he fears trouble, and asks for more troops.

The telegram from the county judge states that the negro soldiers in the fort there deployed in a ravine on the edge of the town and fired into and over the town for something like an hour and a half, shooting into a number of houses. number of them had to flee to the surrounding ranches for safety; that the attack was entirely unprovoked, and that the community was highly incensed and further trouble was looked for at

Upon receipt of these telegrams Gov-Scurry to the scene of action, and he left tonight for his destination. The Governor also wired to Washington to have a full investigation of the matter and to remove the negro troops at once. The commander at San Antonio sent a special detail of officers to the scene ar nce to investigate. All is quiet to-

TROOPS LEAVE FOR THE SCENE. San Antonio, Texas, Nov. 21.—Colonel Roberts, post adjutant at Fort Sam Houston, left this afternoon on a special the Twenty-fifth Infantry to make an investigation of the trouble at Fort Ringgold, and to make a full report to General McKibbin, the department commander. General McKibbin has consulted with Governor Sayers on the subject, and has been asked by the Governor to take whatever steps are in his power to conciliate the citizens and the soldiers. Trouble between the negro soldiers on the frontier posts and the Mexican population has been brew ing for some time. A collision between the police and the negro soldiers at Laredo a few weeks ago has resulted in the abandoning of the post there. A small sized riot also occurred at Rio Grande City last month, in which some soldiers were shot and others were arrested and fined. Since then the Mexicans and soldiers at Rio Grande City

CANNOT TOUCH COL. METCALF. As He Is Mustered Out, the Depart-

have been at the bitterest enmity.

ment Is Powerless. Washington, Nov. 21.—Relative to the allegations that have been made by the late officers of the Kansas Volunteers against Colonel Metcalf on the ground of cruelty, it is said at the War Department that the regiment and ail of the officers concerned having been mustered out of the United States servce, the Department can take no cognizance of the matter.

Constable Kills a Negro.

Norfolk, Va., Nov. 21.—Today Special Constable Pool, of Ettrick, Dinwiddie county, Va., and Walter Mitchell, a negro of bad character, for whom the officer had several warrants, engaged in a desperate running battle, reloading after emptying their weapons. In the last round the constable sent a balt through the negro's body, ending his The negro will die. stable surrendered and was bailed.

A Jeffries-Corbett Match.

New York, Nov. 21.-James J. Jeffries and James J. Corbett were this afternoon matched to fight a 25-round go or to a finish, if the law permits on or about September 15th next. The fight will be under Queensbury rules,