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CONSTITUTIONALITY OF AMENDMENT

The Ablest Lawyer in Louisiana Gives His Views on the Proposed Suffrage Law.

DECLARES IT IS PERFECTLY VALID

Has Been Placed in a Form the Union. The sons or grandsons of ne-Safe From Judicial Attack.

ONLY SOLUTION OF QUESTION

It Does Not Deprive Any One of the Right to Vote on Account of Race, Color or Previous Condition of Servitude But it Catches the Ignorant Negro Just the Same. BY JOSEPHUS DANIELS.

New Orleans, La., May 5.-I spent much of this morning talking with Hon. E. B. Kruttschnitt, one of the foremost lawyers of the South and leader of the New Orleans bar, discussing the Constitutional Amendprovision is similar to the North Carolina amendment. His views on the wisdom and constitutionality of the amendment are given below:

"Whilst I have a great deal of respect for the lawyers in the Louisiana Constitutional Convention who differed from me on the constitutionality of section 5, still I have reached the conclusion that it will stand the test of judicial inquiry. Mr. Semmes, who also spoke on the subject, was, as you are, of course aware, at one time the President of the American Bar Association, and his conviction is even stronger than mine. Mr. Justice Campbell, of Mississippi, one of the ablest jurists who ever sat upon the bench of that State, wrote to Mr. Semmes after that gentleman had spoken in the convention, strongly maintaining the correctness of the position taken both by Mr. Semmes and myself in debate. The of the New Orleans newspapers, between the 8th of March and the 24th of March will give the debate in full. It is not contained in the official proceedings of the convention.

"I have always believed that the Supreme Court of the United States by its decision in Wilson vs. Mississippi, rendered whilst the convention was sitting in New Orleans, but subsequently to the passage of the suffrage amendment, showed very strongly the inclination of that court to sanction, judicially, any expedient which might obstruct the exercise of suffrage by the negroes without actually violating the 15th amendment. The court, in the case in question, quoted decision of the Supreme Court of Mississippi in the case of Ratcliff vs. Neal, in which the Mississippi court

"Within the field of permissible action under the limitations imposed by the Federal Constitution, the convention swept the field of expedients to obstruct the exercises of suffrage by the negro race." "And the Supreme Court of the United

States, referring to this quotation said: "They had swept the field of expedients, but they were permissible expe-

"I may state that I should divide the argument by which I would today support the action of the Louisiana convention into three heads, to-wit:

'1st. That the expedient adopted by the Louisiana convolution is perfectly valid and not subject to attack by reason of conflict with the provisions of the 15th amendment to the Constitution of the United States.

"2d. That even if it be conceded that do not concede), still the convention succeeded in placing it in a form where it is, so far as I can see, absolutely safe from judicial attack; and where it it is also safe from any attack except possibly by some political body which would decide any legal question in any-

"3d. That even if the scheme be conceded to be of doubtful validity (which I do not concede) still it was the best, and the only practical solution of the question in Louisiana, and I believe that it would have been the part of statesmanship to adopt the scheme even if it were of doubtful theoretical validity. "I shall address myself to these pro-

positions in succession. "I believe that the suffrage clause of the Louisiana Constitution is perfectly valid, because it does not deprive any one of the right to vote on account of race, color or previous condition of servitude. The qualification of voters in this State are today educational or property in the alternative, coupled with the proper amount of poll taxes after the year This is the rule for all persons, white or black. The convention did not deprive anyone of the right to vote by reason of race, color or previous condition of servitude, but did provide that certain voters, already entitled to the right of suffrage should not be deprived of that right, provided they registered on or before September 1st, 1898, for the purpose of preserving the right. The class of voters, whose rights were thus saved, were the sons and grandsons of suffragans of January 1st, 1867. On that date the negro was allowed to vote under the laws of at least eights States in

groes, who were allowed to vote in the eight States named, on January 1, 1867, had the right to register under section 5 of the suffrage scheme of the Louisiana convention. Between 1868 and 1894, not only was intermarriage between the races lawful, but all illegal marriages contracted between the races prior to 1868, were validated by legislation of year. Hence, many children of that mixed race were entitled to register under section 5. The acknowledged illegitimate colored child of a white father who was able to vote on January 1st, 1867, could also, in my opinion, have registered under the same section. Hence the excepted class was not one so constituted as to admit all white men and exclude all negroes, but so as to admit some white men, and to exclude some negroes. I may maintain, as a matter of fact, that quite a number of mulattoes did register in this city under the provisions of section 5 (the grandfather clause.) I always believed that it was competent for a State to prescribe qualifications which would rule out the vast mass of negroes, provided the ground of exclusion was not one which necessarily excluded all negroes, and I bement of this State, which in its main lieve that the right of the State is still stronger if a class of preferred voters. the large majority of which happens to be white, do not constitute the bulk of the electorate. In this State there were registered on January 1st, 1897, 164,000 white voters and 130,000 colored voters The registration was at that date probably fuller and more accurate than it had been for many years in this State, because the State political campaign in the spring of 1896 had been more active and involved more of a contest than had existed in the State for many years. I, therefore, believe these figures to be as accurate as any that could be found. Of the white voters, 133,603 wrote their names, and 28,371 made their marks. Of the colored voters, 33,805 wrote their names, and 94,498 made their marks. The records, at the office of the Secretary of State, will show that somewhat less than 36,500 voters availed themselves of the rights accorded by section 5 (the grandfather clause), of the suffrage scheme of the constitution. It is a well known ishes, but in the city of New Orleans. themselves of section 5, did register under its provisions in order to set an example to induce their illiterate neighbors to do so. This was done, for the reason that the illiterates showed an indisposition to come forward and confess the fact that they could not comply with the general provisions of the constitution. For this reason many leaders came forward and registered. In some parts of the State this course was urged by printed or written circulars or newspaper articles. It is impossible to get statistics on this subject, but I feel certain that the number of voters who availed themselves of the provisions of section 5 (the grandfather clause), was below the number of white voters who made their marks when they registered prior to January 1st, 1897, or less than, say 28,000 I believe that it is perfectly competent for the State to confer suffrage as an honor upon a select class in the community whatever the ground of the selection may be, or to refrain from taking away a pre-existing right of suffrage from a like class, because the prohibition of the constitution is not against the granting of the right of suffrage, but against the deprivation of that right. I. therefore, believe that it is competent for a State whilst fixing general limitations upon the right of suffrage, which limitations shall apply to all men, white and black, and which limitations are not unreasonable in themselves, to also constitute a special class to whom the right of suffrage may be given, or in whose favor a pre-existing right may be reserved, whilst it is taken away from others. the scheme is not valid in itself (which I Thus, I do not doubt, howver, repugnant it may be to our American ideas, that it is perfectly competent for the State to provide that no man, whose ancestors served in the Revolutionary War, shall ever be deprived of the right of suffrage; that no man, whose father, or grandfather ever served in the Confederate Army, shall be deprived of the right of suffrage; that no man, whose father, or grandfather ever served in the State Legislature, shall ever be deprived of the right of suffrage, etc. It may well be, that not a single negro will be granted the benefit of this saving clause; but no negro is deprived of the right of suffrage by the saving clause. I do not think that the State stretches the principles,

> deprive all persons other than those of (Continued on Third Page.)

for which I above contend, to any very

great extent, if she extends such a right

only to the children and grandchildren

of those who were suffragans for so many

generations back that the public con-

science revolts at the idea of depriving

them, or their descendants of a right

which is viewed by all Americans as a

vested one, in practice, when it has

once been acquired, although we may

theorize and say that suffrage is a priv

ilege, and not a right. I can very well

understand that a point may be reached

where it will be difficult to say that

the State whilst apparently granting a

privilege to a special class, is not, in

reality, depriving another class of rights.

Thus, it the right of suffrage should be

conferred upon all those whose ances-

tors, however, remote were born in Eu-

rope, I admit that this would seem to

be merely another form of expression to

the Monitor Monterey.

(By Associated Press.) Washington, May 8.-The House devoted most of today to the consideration of private bills reported from the Committee on Claims, and ten bills were passed The most important was a bill to remot the penalties imposed by the Government on the Union Iron Works of San Fran cisco, theb uilders of the monitor Monterey, for her failure to make contract

The House overruled the action of the Ways and Means Committee in reporting against a resolution calling upon the Secretary of the Treasury for information regarding the materials used in the manufacture of oleomargarine which is en file in the Internal Revenue office. The majority of the committee contended that this information could not be furnished under the revised statutes, and that it would betray trade secrets, but the resolution was adopted. This is preliminary to the re-opening of the fight for the Grout bill in the Committee on Agriculture.

Taking up the claims reports, the House passed over for this session the old bill for the relief of the Cramp Ship Building oncern

Other bills passed by the House in luded the following: To pay the General Marine Insurance

Company of Dresden, \$1,434 for coupons of United States bonds lost on the Cunard steamer Oregon, sunk at sea March 14th, 1886. To pay Mary A. Swift, widow of the

late American Minister to Japan, \$12,000. To pay the employes of William M. Jacobs, of Lancaster, Pr., whose tobacco factory was seized, the salaries due them. Subsequently a series of bills were passed to reimburse collectors of internal hevenue for the value of adhesive stamps charged to them but lost in the confusion following the passage of the act of June of 13th, 1898.

At 4:20 p. m. the House adjourned.

CONSIDERING THE NAVAL BILL.

House Provision to Commission Cadets After 4 Years Service Killed.

(By the Associated Press.)

Washington, May 8 .- The Senate today oncluded consideration of the Naval Appropriation Bill, with the exception of that section relating to armor and armament. This went over until tomorrow, when it will be considered in secret legislative session. During the morning hour a number of minor bills were passed, among them one to reimburse various collectors of internal revenue for internal revenue stamps charged against them, but not accounted for.

The debate on the Naval Bill was pracfact that not only in the country par- | tically confined to the paragraph relating to the commissioning of naval cadets. many persons who did not need to avail The committee's amendment striking out the proposition in the House Bill, which sought to commission the cadets at the expiration of the four years' term at the naval academy, abolishing the preliminary two years at sea, was carried after a warm debate.

The act amendin the pension laws known as the Grand Army of the Republic Pension Bill, was laid before the Senate as it passed the House, and the House amendment were agreed to without debate.

On motion of Mr. Tillman the Senate then, at 4:30 o'clock p. m., went into secret session that he might explain why he desired the armor plate question to be considered in secret session.

CALDWELL DEMOCRATIC TICKET.

Edgar Allen Poe Elected Mayor of the Town of Lenoir.

(Special to the News &Observer.) Lenoir, N. C., May 8 .- The Caldwell County Democratic Convention was called to order at 10 a. m., and Dr. A. H. Kent was elected chairman and W. L. Wakefield secretary. Full delegations from each township were present, and reported an unusually large attenance at the primaries in each township on Saturday. The primaries elected Hartwell G. Blair, editor of the Lenoir Topic, for

the House of Representatives, and the convention confirmed the nomination. There were four candidates for sherid. which resulted in the nomination of Abner H. Boyd on the third ballot, the pres

ent sheriff. For register of deeds W. L. Minish had no opposition, and was nominated by acclamation. Nine candidates for treasurer made it lively, and fifteen ballots were had, which resulted in the nomination of George R. Clarke.

R. G. Houck was nominated for surveyor and M. M. Bush for coroner. A new board of county commissioners was nominated, M. E. Schell, H. N. Coffey

and J. A. Mouck. The town election passed off very quietly, resulting in the re-election of Edgar Allen Poe for mayor, and L. P. Houck J. R. Widby and W. H. Cloyd for commis-

NOT THOUGHT HOLTON WILL ACCEPT.

Joint Canvass of Democratic and Republican

Candidates Proposed. (Special to News and Observer.) Winston, N. C., May 8 .- A letter from Democratic State Chairman Simmons to Republican State Chairman Holton, proposing a joint canvass of Democratic and Republican State candidates was received here today, but as Mr. Holton is in Asheville attending the Federal court, the letter was forwarded to him there. It not believed here that the proposition will be accepted. The Republicans want the Populists to do their fighting on the stump.

A bill giving the widow of the late Maj. General Henry Lawton a pension of \$50 per month was yesterday favorably re-Caucasian blood, or race, of the right ported to the Senate from the Commit-I tee on Pensions.

One to Remit Penalties Imposed on Builders of WRECK RALWAYS AS THEY FALL BACK

Boers, However, Do Not Stay Roberts' Steady Advance.

VANGUARD AT ZAND RIVER

Boers Laagered in Unknown Force on Opposite Shore.

The Position of the Boers at Thaba N'Chu Was

GLOOMIER TIDINGS FROM MAFEKING

Considered Impregnable and Was Abandoned Only by Order of Steyn, it is Said.

(By Associated Press.)

London, May 9.-Wednesday 4:10 a m.)-Four thousand British cavalry watered their horses at Zand River Monday, twenty-five miles beyond Smaldeel, where Lord Roberts continues to date his dispatches.

The scouts who have been searching the country for miles along the stream have found no Boers south of the river. The enemy are laagered in unknown forces on the north bank.

Thus the British advance guard is within forty miles of Kroonstad. The Free Staters, in the expectation that Kroonstad will speedily become untenable, are, according to information from Lorenzo Marquez, preparing to transfer their government to Heilbron, a little more than fifty miles north-

The proclamations of Lord Roberts appear to have little effect upon the inhabitants of the invaded districts. Every farm is found deserted excepby the women and children. All the men are away fighting.

Correspondents at headquarters are now wiring freely concerning the incidents connected with the occupation of Smaldeel. Some operation expressed at the ease with which the Boers escape with their transports before the very eyes of the British. For instance, when the British enter-ed Smaldeel the Boer ov-wagons coolly out-spanned only five miles away, to the afternoon, when the as if in contempt of the abinty of the British to overtake them.

has an empty stomach and a pinched Lady Sarah Wilson, under date of

April 27th says: The Boers now number 4,500, in-

cluding Young Eloff, President Kruger's grandson, who has sent for

The British column is reported to have reached Taungs, thirty miles north of Warrenton. According to Pretoria advices, the British are nearing Vryburg, which is half way between Warrenton and Mafeking. General Hunter is probably not in personal command of this relief column.

His forces embrace 20,000 infantry and from 5,000 to 6,000 horsemen. an army far greater than has hitherto been supposed. Lord Methuen is apparently a subordinate. While the relief column is moving towards Vryburg, General Hunter is apparently preparing an orderly advance northeast along the Vaal River, to part's pate in the Pretoria advance as Lord Roberts' left flank.

Cape Town correspondents learn that an important movement in Natal is expected within the next four days. General Buller is rapidly completing his transport organization. The proceedings of the Transvaal Volksraad indicate President Kruger's undiminished tenacity of purpose. course of the debate he said, that should he be sent to St. Helena the Republican cause would still go on. Generals Louis Botha and Lucius Meyer are in Pretoria consulting with the Volksraad.

ROBERTS MEETS MANY DIFFICULTIES. Boers Wreck Railroads and Bridges to Delay His Advance.

(By the Associated Press.) London, May 8.-The following dispatch from Lord Roberts has been received at the War Office:

"Smaldeel, May 7.-The railway from Brandfort to this place has been considerably damaged, and the bridge over the Vet River has been hopeles ly damaged. This delays supplies coming up. Every few yards charges of rackarock have been laid under the rails. This might have created loss of life, but was fortunately discovered by a West Australian infantryman. Winburg has been occupied by the

In spite of these wrecked railroads

the British advance goes on steadily Lord Roberts' outposts are apparent ly about twelve miles north of Smaldeel, General Brabant has joined General Rundle at Thaba N'Chu, whence they are moving forward. The country is all quiet in that direction. A reconnoissance made by General Rundle of the Boer's recent positions at Thaba N'Chu resulted in their be ing pronounced impregnable and their evacuation is reported to have been due to the receipt of an urgent message from President Stevn. The

Boers are said to be moving north-

Highland brigade.'

ward, but their immediate destination is not known.

The whereabouts of the British cavalry under General French is still a mystery, while General Kelly-Kenney's and General Chermside's divisions are also unaccounted for.

It is announced that no more Boer prisoners will be sent to St. Helena. Marques says the colored American citizen named Richards who was committed for trial by special court on the charge of murder in connection with the explosion at Begbie's works is alleged to have said he was offered 5,000 pounds sterling to blow up the foundry.

The same dispatch says that when President Kruger heard of the explosion he dramatically exclaimed: "Is there a God?

SNYMAN IS REINFORCED.

Lorenzo, Marquez, May 6 .- (Sunday.)—A dispatch received here from Colonel Plumer's camp, bearing date of April 26th, states that the Boers around Mafeking have been gradually reinforced, and their strength is estimated at 3,000.

Colonel Plumer has succeeded in communicating with Mafeking by means of carrier pigeons and is endeavoring to communicate with the Southern relief column.

BOERS WILL FIGHT AT ZAND RIVER. Such is the Report That Now Comes From

Smaldeel.

(By the Associated Press.)

Smaldeel, Orange Free State, May -(Monday.)-General Hutton's ad vanced camp of the Colonial regiments, is tonight settled at Lodgele gen Siding.

According to reports, the Boers in tend to make a big stand near the Zand River. The railroad has been repaired to the south side of the Vet River and the engineers are busy mak ing a deviation across the bed.

REOPENING OF THE VOLKSRAAD.

President Kruger Declares the People Will Do Everything For Peace.

(By the Associated Press.)

Pretoria, May 7 .- (Monday.) - The official closing of the 1899 Volksraad, which broke up unofficially in September last, took place today. The vacant seats of General Joubert and General De Cock and others were filled with flowers. The hall was crowded, a large number of ladies being present.

In the prayer of the chaplain an allusion was made to General Joubert, and many were moved to tears. After the prayer the Raad adjourned ters that many of the telegraphers forof 1900 was inaugurated. The ceremonies were accompanied by the cus-The tidings from Mafeking are tomary salute. President Kruger ar gloomier than ever. Everybody there rived in the State carriage with the tomary salute. President Kruger ar usual escort. All the diplomatists and foreign attaches, including General Gourko, the Russian attache, were present.

The Raadzaal was crowded to its fullest capacity, and the scene was most impressive. President Kruger, in his speech opening the session, alluded feelingly to the vacancies Referring to General Joubert he said: "Future generations will be able to indge the work of the deceased, whose

demeanor inspired the enemy respect and whose humane and brave conduct gave fame and importance to the State among civilized nations." He was profoundly struck, he said,

by the proof of sincere friendship given by the people of the Free State who had fulfilled their obligations to the Transvaal under the treaty. They realized that a united front was required, as an attack upon the independence of the Transvaal meant a implicit confidence in the future of the Afrikander nation.

By deeds the Free State had shown, the President declared, a good example to the people of the Transvaal, which had proved of great moral value to those guiding the efforts of a small State to maintain its independence. He was pleased to say that the relations of the Transvaal with foreign states with the exception of Great Britain, were good.

After referring to the peace proposals of the President of both republics to Lord Salisbury, President Kruger said:

"We have proved by legislation and our dealings with Great Britain last year that it was our desire to preserve peace ,and now that war has broken out, we will do everything to restore peace."

After alluding to the deputation now on a mission to Europe and the United States and the presence of so many attaches, proving the intense interest of the powers in the republies, and to their methods of fighting. he said he was pleased to see that the sympathy of the world was on their side in the war, that ambu lances had been sent and that their friends were united in endeavoring to alleviate the distress caused by the struggle.

After reference to alleged violations of the Red Cross convention and to the consequent protests of foreign powers, President Kruger continued: "Notwithstanding the difficult circumstance, I am glad to say that our finances will enable us to bear the great expense of the war and that

the mines are flourishing. The President concluded with a reference to the Free State loan and suggested that the session be not long prolonged and that only matters of importance be dealt with. In a moving peroration he invoked the blessing and help of the Almighty.

The proceeding terminated with unusually impressive speeches and (Continued on Second Page.)

OFF THE STRIKE

Support It Loyal.

SO SAYS THE PRESIDENT

The Boycott Against the Southern to be Continued.

THE ORDER WILL KEEP UP ITS FIGHT

It is Never to be Stopped Until the Demands of the Telegraphers Are Complied With.

. Many Strikers Go to West-

ern Roads. (By Associated Press.)

Atlanta, May 8 .- President W. V. Powil, of the Order of Railway Telegraphers issued an order effective at 11 a. m. today discontinuing the strike of the Southern Railway telegraphers, declared April 12th, 1900.

In his statement President Powell announces the decision of the officers of the order regarding the strike. He states that the telegraphers can now apply to the Southern for employment without being considered by the Order as "scabs,"

but advises them not to do so. He says: "It is to be regretted that some of the purposes for which the strike was inaugurated are not entirely successful. "Had all the membership of the organiation and those who agreed to support it in this struggle remained loyal to their cause it would have been possible to give to you the notice of a complete vic-

President Powell asserts that while the strike controversy is ended the boycott feature on the Southern will be continued by the order and concludes his statement as follows:

"The fight against the Southern Railway will never be stopped by the organization until such time as it concedes the things demanded by its telegraphers, the refusal of which led to the inauguration of a strike on the Southern's lines at 11 a. m., April 12th, 1900.'

It is stated from the strikers' headquarmerly employed by the Southern are seeking positions on Western roads and some are entering other employment.

The daily strike edition of "The Journal of Labor" through the columns of which the fight has been vigorously waged, announced its discontinuance in today's issue.

THE FIFTEEN MEN WERE SAVED

Waifs From the Virginia Wrecked on Diamond Shoals, Rescued.

(By the Associated Press.) New Orleans, La., May 8 .- The Morgan Liner El Paso, which arrived early today from New York, brought with it Second Mate Willoughby M. Mooore and fourteen of the crew of the wrecked British steamer Virginia. This vessel, Captain Charles Samuel, from Daiguiri, Cuba, for Baltimore, with a cargo of iron ore and a crew of 26 men stranded on Diamond Shoals, about 6 c'clock on the evening of last Wednesday, about twelve miles off Cape Hatteras. Mate Moore and the crew, as soon as they arrived in New Orleans. went to the office of British Consul Van threat against the r'ree State. He had Sittart. They related a tale of great suffering and hardship. Moore and the fourteen men with him managed to get into a boat after the stranding of the vessel, but were unable to make shore owing to a high wind from the land, and were driven out into the open sea. El Paso sighted the forlorn crew of the wrecked Virginia, and they were soon

OUR FLAG WAVES OVER TUTUILA.

Native Chiefs Formally Cede the Island to This Government.

(By the Associated Press.)

Auckland, N. Z., May 8 .- Advices received from Samca announces that the American flag has been hoisted over the island of Tutuila, amid great native rejoicing, and that the chiefs have made formal cession of the island to the United States.

The inhabitants of Manua, it is also announced, request the formal hoisting of the American flag over that island, which will likewise be ceded.

The natives of the islands will rule themselves under governors appointed by

the commandant of the naval station. FINE TICKET CHOSEN AT NEWTON.

The House of Register of Deeds Dellinger Robbed.

(Special to the News & Observer.) Newton N. C., May 8 .- At the town election held here yesterday, Mr. C. Milton McCorkle, son of the late Hon. M. L. McCorkle, was elected mayor and Messrs. A. J. Seagle, Geo. A. Warlick, J. C. Smith and D. J. Carpenter were elected town commissioners. The three commissioners last named are prominent business men of the town.

The home of Mr. P. M. Dellinger, register of deeds, was broken into on Friday night and clothing, money, etc., to the amount of about \$30 was stolen. The robbery was not discovered till Sunday evening when Mr. and Mrs. Dellinger returned from the country. No clue has been found as to who the thieves are,