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## ASSERT THAT SCHLEY HAS SHIFTED GROUND.

Lemley and Hanna "Comment" on the Admiral's Appeal.

CHIEF FEATURES OF CASE

They Name What They Consider Such and Say Schley Ignores

APPEALS ON FEATURES FAR LESS GRAVE

As to the Question of Who Was in Command, They Quote a Dispatch From Schley to Show That it Was

Sampson.

(By the Asociated Press.)

Wahington, Jan. 30 .- The "comment of Judge Advocate General Lemly and Solicitor Hanna upon the appeal of Admiral Schley, as submitted to the President by Secretary Long, begins with the statement that Admiral Schley and his counsel have shifted their ground. They say the chief features of the case were ence of orders;" "inacurate and misleading official reports;" "failure to destroy vessels of the enemy, lying within and "injustice to a brother offi-These matters are all grave. The first was that the finest aggregation of Schley's direction, turned about and headed for Key West, more that Schley deliberately and knowingly disobeyed the Secretary's order overtaking him in his retrograde movement. cially given for the retrograde movement and disobedience of orders, i. e. "that the Fying Squadron was short of sick. coal," was not true. The fourth was that for three days some of the Spanish ships lay within reach of the Flying Squadron, and no sufficient effort was made to destroy them. The fifth involves the point of honor. The commentators

'Upon all the above named features. beliebed by us to be the most important, if not the only really important matters, into which the court made inquiry, the conduct of Admiral Schley was condemned by that most distinguished tribunal! Admiral Dewey and Rear Admirals point of the revolvers and the three Benham and Ramsay united their fiedings and opinion upon all of these severa points."

The commentators charge that Admiral Schley now ignores all these grave matters and bases his appeal upon relatively unimportant features of the case.

The commentators say they recognize the fact that Admiral Schley devoted passed out into Ross street. by far the larger part of his appeal to the question of command, and consequently give that question a proportionate space in their comment. They declare that the question is between Sampson and Schley, both alike interested. and to investigate it fairly both should Hospital.

"It is admitted that the precept was broad enough to have permitted the court to go into the question, but it is recalled that, athough the Judge Advocate expressed a willingness to enter upon it. the court did not deem it necessary or proper to do so. The Judge Advocate. they say, might have shown that it was Admiral Sampson's plan of night blockade that forced Cervera to come out in the daylight, and Captain Clark is quoted to support that statement.

They quote Admiral Schley in his testimony to the effect that the American ships charged in "acting to the original plan to sink the enemy in the channel." and that that plan failed because the

and declare "the Brooklyn, having abandoned her position on the left of the line, thereby left an unguarded opening along the western shore, through which the Spanish fleet passed our ships and at-

tempted to escape. The court's opinion is quoted to the effect that the Brooklyn lost distance in proned to McDonald and was informed position by the "loop" and delayed the Texas. To sustain their contention that Sampson was in command, the commen

tators quote from Schley's report of July 6. 1898 as follows: 'The dense smoke of the combat shut

out from my view the Indiana and the Goucester, but, as these vessel were closer to your flagship, no doubt their part in the conflict was under your immediate observation.'

They remark:

'Nobody has ever disputed Grant's title to the victory at Appomattox, though then lying sick some miles from the place of surrender so far that it was teared he could not be reached within

gift, the city of Savannah,' and as show-ing Schley's own opinion of who was in command , they quote this passage from his dispatch of July 10, 1898, to the

Secretary of the Navy: "From some mortification that the newspaper accounts of July 6 have attributed victory of July 4th, almost entirely to me. Victory was secured by the force under the command of the commander-in-chief of the North Atlantic station, and to him the honor is due.' Further they quote Schley's letter of December 18, 1901, to Secretary Long. justifying the "loop" on the expressed ground that it was made "in the execu tion of the standing order to close in."

self in command, how happens it that he was executing the orders of somebody else in command?" \* \* \* before the Court of Inquiry, every proof raised to support the contention the Commodore Schley did anything to achieve the victory by issuing orders as commanding officer of the American fleet was removed. The plain truth was for the first time revealed that Commodore Schley did not exercise command on that day over any ship, except, to some extent, his own flagship, the Brooklyn."

The comment at this point contains number of extracts from the testimony to sustain this contention. Taking the Brooklyn's signal book it is stated that this showed that the Brooklyn gave only (Continued on Page Five.)

### Two Desperate Criminals Overpower Their Guards and Escape.

(By the Associated Press.)

Pittsburg, Pa, Jan. 30 .- Edward and Jonh Biddle, awaiting execution in the county jail for murder of Grocer Thomas D. Kahney, of Mount Washington, overpowered the guards at 4 o'clck this morning and escaped.

Both prisoners had been provided with saws with which they cut the bars in ment to make an opening sufficiently large to pass through. The prisoners octhan 700 miles distant, when within cupied adjoining cells on the second range. They had evidently been preparing for escape for some time, and had assistance from the outside, as both were armed with revolvers.

Shortly before 4 o'clock one of the Biddles called to James McGreary, who had The third was that Schley's reason, offi- charge of the outside gates, and asked for some cramps medicine in a hurry, move for the control of the next Resaying his brother was dangerously

McGeary hastened to the cell with the medicine when John Biddle sprang through the opening in the cell, and day. The President and Civil Service Com- when Meekins and Nichols were defeated ed him over the railing to the stone floor beneath, a distance of sixteen feet. Edward Biddle joined his brother imme-Guard Reynolds and shot him.

There were but three men on duty and the third mas on one of the upper ranges. He was ordered down at the guards were put in the dungeon.

The keys were taken from Keeper McGeary and the two desperate prisoning and each put on a new suit. They ally. then unlocked the outside gates and

o'clock. They were informed by prison- the interest of the speculators. ers where the night guards had been put

believed that his wife was responsible er.

to escape. that she left her husband and her four growing States. children, and it is supposed was to meet

ted to the ail since last Sunday. Yester- division. The House then adjourned. day afternoon she visited the Biddles

during the warden's absence. Last evening she retired at 9 o'clock. She told her husband that she was going to visit a sister at McDonald, and that enemy succeeded readily in passing the she would retire early so that she could get an early start. Warden Soffel was They ak why did the enemy succeed, about the jail until after 12 o'clock. He retired to his room, which is separate shortly before from Mrs. Soffel's,

o clock. When he awoke this morning, he asked for Mrs. Soffel and was informed that she was absent. Later, when the details of the escape became known, he telethat Mrs. Soffel was not there.

#### Our Apple Display.

Advices received from Mr. T. K. Bruner, now at the Charleston Exposition, say that many of the handsome ap-Carolina week arrives.

## Fifteen Days For Vagrancy.

The mayor yesterday gave George of Admiral Dahlgren's gunboats, nobody and at the back doors of houses.

## as questioned Sherman's famous report Lincoln: "'I beg to present you, as a Christmas PERWANENT CENSUS BUREAU IS FAVORFD

Creation.

a Unit For It.

TO BE BORN FIRST OF JULY TO PREPARE IT AT ONCE

It is asked, "but if he was then him- Bill Also Provides for Manufacturing The Taxes Will be Reduced Sixty-Census in 1905

COLLECTION OF COTTON STATISTICS THE TAX ON MIXED FLOUR WILL REMAIN

Mr. Klut'z Advocates the Bill's Passage, Say- The Bill is to Repeal Duries on All Articles ing This Provision Should Commend Measure to Members From the Cotton States.

Washington, Jan. 30 .- The House today passed the bill for the creation of permanent Census Bureau. The friends of the Civil Service law who were op-

(By the Associated Press.)

posed to making the employes of the eureau eligible for transfer or retention were overwhelmingly defeated. By the organization July 1, 1902, and all empassage of the act will become eligible 1903. for transfer to other departments or re-

WAR REVENUE TAX House Passes the Bill For Its Ways and Means Committee

Eight Millions.

Ezcept Tea on July 1, Duty to Remain on This Till January 1, 1903,

(By the Associated Press.)

Washington, D. C., Jan. 30 .- The Ways and Means Committee by unanimous Skinner for United States Attorney for to prepare a bill repealing all the way

The action taken was in the form of terms of the bill the permanent organi- a resolution to the effect that the bill zation will succeed the present temporary should provide for the repeal of the duty on tea should go into effect January 1, pleyes on the rolls upon the date of the on the tea should go into effectJattaon

The only division in the committee was tention in the permanent organization. I an amendment proposed by Democratic

## THE FIRST STEP IS TAKEN TO DETHRONE PRITCHARD

saws with which they cut the bars in their cells and were ready at any mo- E. C. Duncan Charged by Raleigh Republican With Wilful Violation of Civil Service Law. Writ-

> ten Specifications Received by the President.

> > (Special to News and Observer.)

publican State Convention and the dethronement of Jeter C. Pritchard as the signed by a prominent Raleigh Republican, against E. C. Duncan, internal revethereof.

Duncan is specifically charged with in- subpoenaed to give their testimony. terference in the political affairs of the

Adams was nominated for Congres.

He is charged with the same conduct Eoss of North Carolina was made here to- in the First and Fourth districts in 1900, seizing the guard around the waist, hurl- mission received written specifications for the nomination for Congress in these districts.

A request is made that in support of diately and both, with drawn revolvers, Due collector for the Fifth North Caro- the charges Thomas Settle, I. M. huried to the first floor, where they met lipa district, charging wilful violation of Meekins, D. H. Abbott, John Nichols, H. the Civil Service law and regulations L. Grant, G. W. Cobb, Claudius Dockery, H. C. Dockery, and perhaps others, be

> These charges are said here to be the Fifth Congressional district when Thom- culmination of the defeat of Bernard.

ers who could not interfere or give an The bill also provides for a manufactur- members. Representative Richardson, alarm. The Biddles went to the ward- ing census in 1905 and for the collect of Tennessee, proposed an amendment robe where the guards keep their cloth- tion of certain special statistics annu- to put trust-made articles on the free

The escape was nt discovered until the the proposed collection of annual statisdaylight guards came on duty, at 6 ties upon cotton, under the bill was in

"I am sorry to hear a gentleman from and they were soon released from the the South express such an opinion," obdungeon and sent to the Homepathic served Mr. Hopkins. "The collections of Warden Peter K. Soffel, who said he of the planter, manufacturer and labor-

for the furnishing of the revolvers and Mr. Kluttz (N. C.), advocated the passaws to the Biddles, which enabled them sage of the bill urging the provision for the annual collection of cotton statistics In her infatuation for the handsome as an especial reason why the bill should desperado, Edward Biddle, it is alleged commend itself to members from cotton

Mr. Maddox (Ga.), demanded the ayes the escaped convicts at a place agreed and noes upon the passage of the bill, but only eleven members seconded the Mrs. Soffel was the only person admit- demand and the bill was passed without

#### DR GEORGE T WINSTON

#### Appointed Member of the Board of Visitors at the Naval Academy.

(By the Associated Press.) Washington, Jan. 30 .- The President has appointed the following Board of

Visitors at the Naval Academy: William Butler Duncan, New York; Francis Rawls, Philadelphia; James R. May, Portsmouth, N. H.; L. W. McGruder, Vicksburg, Miss.; Eugene L. Zimmerman, Cincinnati, Ohio; Dr. George T. N. C.; Francis B. Winston, Raleigh, Gault, Tacoma, Wash.

#### The Peanut Situation in Halifax,

(Roanoke News.) Halifax county grows the Spanish peaples he collected in the west have rotted nut almost exclusively and the crop last We can provide a rebate on the tobacco

list. This was defeated by a party vote During the discussion of the bill. Mr. Representative Richardson, of Louisiana, Maddox (Ga.), expressed the opinion that moved to continue the tax on "bucket shops," this was also defeated on a party vote. Representative Newlands, of Nevada, offered two amendments, one excepting from the repeal the tax on ptrol eum and sugar refineries and another imposing a tax of one-tenth of one pe these statistics will be for the benefit cent. gross receipts of any industrial corporations having receipts of \$1,000,000 annually. Both amendments were defeated by party votes. Chairman Payne made the following

statement on the proposed repeal:

"The Treasury now has an available eash balance of something over \$174,000, 000. It is not likely that this will be in creased materially during the present fiscal year, as the Treasury is buying bonds at a rate that will use up the sur plus to accumulate between this and the end of the fiscal year, June 30th., next.

'The Secretary of the Treasury's re

port estimated a surplus for this year of \$100,000,000 and subsequent reports seem to confirm this estimate. The committee therefore thought it was entirely safe to repeal the remainder of the war revenue taxes amounting to sixty-eight million dollars, and the tax on tea of nine million dollars in the aggregate \$77,000,000 at this time. This will still leave a surplus estimated upon this year's receipts and expense of twenty-two or three mil lion dollars for the year, while we will start upon the next fiscal year with \$164,000,000 vailable cash in the Treasury The committee deems it wise to have the repeal of the tax on tea take effect on the first of January next in order to arm. enable those, especially retailers and small dealers, who have small stocks of the duty paid goods on hand, to dispose of them before the repeal takes effect there in apples, but he fears he can not nearly their entire crop by freshets and ternal Revenue Department has this keep a full variety on hand till North farmers generally report that the crop trade under close surveillance and can Exposition, Charleston, with "Asheville was very short. The same conditions ap- and will take an account of the stock in Day." Invitations have been extended sections. Some of the Halifax county July next. But this will be impossible Woman's Board Exposition, and also enfarmers who have heretofore planted as to teas which come in as customs dorsed by Colonel Averill, director genthe period of armistice. Though Howard Murphy and Charles Rice each fifteen all this year, while others may become has no account save as they are import- Travis has written Mayor Miller, inviting was senior officer present at the capture days for vagrancy. Both are white men encouraged by the prospects of higher ed in large quantities by the importers. him to name February 10th as "Asheville of Savannah and Sherman absent on one who have been begging in the streets prices in the future and plant increased Continuing this tea tax to the first of Day," and also to appoint a maid of

make the ultimate reduction for the next year considerably less than \$75,000,000. The bill will be presented to the House on as it can be prepared.'

SALE OF NEW HANOVER BONDS.

A Premium of \$1,312 50 Paid on the Issue of

(Special to News and Observer.) Wilmington, N. C., Jan. 30 .- New Han ver's issue of \$50,000 bonds, authorized by the last Legislature, for the perma ment improvement of the roads of th county were sold today by the commis cioners to Jno. S. Armstrong, vice-presi dent of the Atlantic National Bank whom it is understood was representing a Northern firm. Mr. Armstrong paid pregium of \$1,312.50 for the certificates which hear 41/2 per cent interest payable semi-annually and mature in twenty-five years. There were five other bidders from Cieveland, Cincinnati and

SKINNER IS CONFIRMED.

Columbus, Ohio, all of whom offered

As United States Atterney For the Eastern District of North Carolina.

(By the Associated Press.) Washington, Jan. 30 .- The Senate to day confirmed the nomination of H. the Eastern District of North Carolina.

### Ivanhoe, in Wythe County, Virginia, Almost Swept Out of Existence.

(By the Associated Press.)

Roanoke, Va., Jan. 30.-The little own of Ivenhoe, in Wythe county, was almost entirely destroyed by fire early this morning. The stores of J. W. Miller, E. Huddles J. C. Lawson, Pierce & Compary, a new brick building just completed and intended for a bank; two had little intention to discuss, except in grocery stores, the postoffice and several lwellings were burned.

flames started in the store of J. W. Miller, but the origin or the money value of the loss has not yet been learned.

#### DEPARTMENT OF AGRICULTURE.

#### Settle was defeated for nomination The Committee's Report Considered by the Con- charged the minority with conspiracy and stitutional Convention

(By the Associated Press.) tutional Convention today Dr. McIlwaine offered an amendment, providing that the Department of Agriculture should be permanently located at the capital of the State. Chairman Stuart moved to amend so that it should read "with power to establish branches elsewhere." The amendment was accepted, and as amended the substitute offered by Dr. McIl-

waine was adopted. Mr. Hubbard offered an amendment requiring that the Commissioner of Agriculture should be a practical farmer. The amendment was defeated, yeas 5; noes 46.

Mr. Brown offered an amendment providing for a Bureau of Immigration, to be managed by the Board of Agriculture and Immigration, which was adopted. Chairman Green, of the Commtitee on

Bill of Rights, presented the report of that committee. Chairman Fairfax, of the Committee on Finance, submitted the report of that committee. The latter is the last report

coming from a regular standing com-

mittee. Mr. W. A. Anderson offered a resolution authorizing President Goode to appoint two additional members of the Committee on Final Review, which was adopted. The convention, at 1:55 o'clock

#### SHOT AT DOG, KILLED FRIEND.

adjourned.

#### Sad Death of Young Jasper Aimerson. Johnson Gets \$1,500 Damages

(Special to News and Observer.) Goldsboro, N. C., Jan. 30 .- Jasper Aimerson, aged about 20 years, a promising young man of Nahunta township, was shot last evening by his companion and relative Pharaoh Davis, near Fremont, N. C., death resulting this morning. The young men were en route to Fremont and on the road were assailed by a dog. Davis drew a pistol to shoot the dog, but while in the attempt to cock the weapon it went off, the ball passing through his

left hand and into the side of Aimerson. Mr. Richard Johnson was awarded damages in the sum of \$1,500 by the jury today. The action was against the Atlantic and North Carolina Railroad and damage asked was \$10,000. It will be recalled that Mr. Johnson, in getting off a train at LaGrange, fell and broke his

#### Asheville Will Open Carnival.

(Special to News and Observer.) because of poor cold storage. He says year was just about one-half of what tax and guard against any fraud upon the revenue for the reason that the In-been invited to open the grand carnival at South Carolina Inter-State West India pear to have existed in other peanut the dealers hands on the first day of through Mrs. Simmons, president of the peanuts say they will not plant them at duties, and of which the Government eral of the exposition. Mrs. H. McCall January will give us six months' revenue honor to be queen of the carnival.

# CRIES TILLMAN

Miserable Canting Attitude Toward the Filipino.

HE LASHES IMPERIALISTS

Real Murderers of Our Troops in the Philippines.

TALKS OF THE REVOLUTION

And Draws a Deadly Parallel Between Great Britains Warefare on the Colonies and the Effort of Subjugate the

Filipinos.

Washington, Jan. 30 .- Today's session ter the Philippine tariff measure was taered a speech devoted almost entirely to a discussion of the part his State took in the war for the independence of he Colonies. Incidentally he referred eccasionally to the pending bill, drawing morals, as he said, for the benefit of the majority that they might be applied to the present trouble in the Philippines and to this Government's treat dent of

the Filipinos. At the conclusion of Mr. Tiliman's peech Mr. Morga: took the floor in order that he might proceed at 2 o'clock tomorrow with his proposed discussion of an amendment which he has offered to

the pending bill. The South Carolina Senator, said he. an incidental way, the Philippine Tariff Fill. He desred, he said, to continue the discussion of the "very interesting his-The building in which the postoffice discussion of the "very interesting his-was located was also used by Postmaster torical subject" which had been brought lewett and family as a dwelling. The to the attention of the Senate by Mr. Money (Miss.) He would have had something to say about the matter yesterday had not Mr. Lodge employed what he considered ungracious tactics. tactics were supplemented by other Regallant young friend from Indiana (Mr. Reveridge) leaped into the arena and

obstruction." "The Philippine Tariff Bill," he con tinued, "is very important from the Richmond, Va., Jan. 30 .- In the Consti- standpoint of those who propose to pursue felentlessly and remorselessly the present Philippine policy, although the Senator from Utah (Mr. Rawlins) has shown that there is now over there lenty of money for the carpet baggers to spend."

Discussing the historical subject raised

yesterday, Mr. Tillman said: 'I am glad that Massachusetts has one Representative in this chamber-even if South Carolina has only one," he interpolated significantly, "who stands sturdily for the principles upon which this Government was founded-those princiles which constitute the true road to

He then entered upon an elaborate agcount of the part South Carolina took in the war for the independence of the Cclonies although he sail he was ill prepared to do so great a subject justice.

While Mr. Tillman was speaking several Senators engaged in conversation among themselves. To this Mr. Tillman orjected because of the interruption and he requested that those so engaged retire to the cloak rooms. For once he was, he said, making a speech for home consumption. "Of course," he said, "the Senators on the Republican side are not interested. I could hardly hope to reach on such a subject the minds and hearts of the calloused majority-the commercialized, money grabbing, money loving majority, as such a subject is not in consonance with the miserable, canting, damnable attitude which that party is

new assuming." By the time he had concluded this linquistic diversion Mr. Tillman had the ettention of all the Senators present.

Mr. Tillman declared it was the history of all conquering armies when prosecuting such a struggle as the British pressed against the revolutionary colonists and which is now being carried on by the British in South Africa, that they committed cruelties and trampled upon all the obligations of humanity.

"And I would ask the majority in this chamber," he said, "if, in trying to force the Filipinos to accept our Government without a promise, they are not inviting the exasperation of the natives and a spirit of perpetual insurrection.'

The effort to treat the Filipinos "as chattels-as cattle," he declared was 'damnable," and he charged the majority side with being the "real murderers of our troops in the Philippines."

"But," he asserted, haking his finger at the Republican side," if we can gag you and force down your throats a scintilla or small dose of the principles which actuated the men of Massachusetts in 1776, we will have done our duty to the country and to humanity."

In a brief colloquy with Mr. Burton (Kansas), an allusion was made to the remark of Mr. Tillman yesterday about the burning of negroes in Kansas. Mr. Burton said no one in Kansas was proud of committing murder, and Mr. Tillman retorted, "They preferred to murder them in the Philippines."

Commenting upon the sedition laws promulgated by the Philippines Com-

(Continued on Page Five.)