

Leads all North Carolina Dailies in News and Circulation

BUTLER & RUSSELL

Their Own Evidence Convict Them of Conduct That Will Forever Damn Them in North Carolina.

STARTLING ADMISSIONS

The Evidence and Attendant Circumstances Show That These Two Public Officials Knew if They Did Not Inspire the Litigation South Dakota has Commenced Against North Carolina.

When Mr. Fabius H. Busbee, attorney of the Southern Railway, as attorney for New York bankers, memorialized the Legislature of 1901 to set in motion machinery for testing the validity of certain second mortgage bonds which they held, this paper declared that underneath that movement was a deep-seated scheme to secure the sale of the North Carolina Railway, as well as to compel the State to pay money which it did not honestly owe. That statement was made upon the authority of one of the best informed railroad men in America. It was also stated that, after becoming the vassal of the Southern Railway, Governor Russell was in the scheme which was far reaching and inimical to the true interests of the State of North Carolina.

When the State of South Dakota began a suit to compel the State of North Carolina to pay the bonds, there was a suspicion that there had been collusion between certain former North Carolina officials and the holders of the bonds. Recent disclosures confirm that suspicion, and disclose a condition of affairs as disgraceful as any that cursed the State in the days of Radical rule in 1868-9. Radical rule of that day sought to fasten a dishonest debt upon the people of North Carolina. The Russell Radical rule, of which Butler, Russell and certain Southern Railway lights were the leaders, sought—for sinister, selfish or dishonorable ends,—to compel the State to pay for certain Western North Carolina railroad bonds which the State had honorably adjusted, and compromised more than twenty-five years ago. Having settled the State debt upon an honest basis, all the creditors, except a few New York bankers who held the W. N. C. R. R. bonds for speculation or to give trouble, accepted the settlement upon the basis prescribed by the Legislature. These New York bankers for twenty-five years have held these bonds "for such a day as this." They may have held them during all these years on their own speculative account, or they may have held them as agents of certain railroad manipulators who wished to hold them to force their own terms upon the State. However that may be, those who really own these bonds have known all these years that they could not in any legal or honorable way enforce their payment except by accepting new bonds at the rate of twenty-five cents in the dollar. After Russell, in spite of all his rant and bluster, confirmed the lease of the North Carolina Railroad, certain Southern Railway folks, in possession of the 99-year lease at an absurdly low rental, wished to get the ownership of the North Carolina Railroad, in order to issue stock upon it for three or four times its market value. It would be easy to float \$20,000,000 stock on the road upon which only a seven per cent rate on \$4,000,000 is paid. If certain promoters connected with the Southern Railway could secure the North Carolina road, bound up by a lease so as to prevent bidding by any other railroad, they saw a profit variously estimated anywhere from five to twelve million dollars in the transaction. At one time—so Governor Russell swears—it was their purpose to bring a case before the North Carolina Supreme Court for the payment of the bonds upon which South Dakota is now suing the State of North Carolina. Governor Russell testifies that this plan was abandoned just before the Legislature of 1901 met. Is there no significance in this testimony? Mr. Fab Busbee, Southern Railway lawyer, was the attorney when the Supreme Court ordered the payment of money out of the State Treasury WHICH THE LEGISLATURE SAID SHOULD NOT BE PAID, thereby violating the Constitution of North Carolina. If that illegal and unconstitutional payment had been acquiesced in, could not the same Supreme Court have overridden the acts of the Legislature, forbidding the payment of the bonds upon which the State of South Dakota is now suing? If the Investigating Committee appointed by the Legislature, headed by Judge Michael

earth to secure the sale of the State's stock in order to buy the same. They will have the biggest lobby ever seen in North Carolina to carry their end in this matter.

The testimony of Russell and Butler, taken together with all the attendant circumstances, clearly establishes the following state of facts:

1. Governor Daniel L. Russell and United States Senator Marion Butler, holding the highest positions of trust in North Carolina, charged by their oaths to protect its every interest, were in consultation and conference with men by whom they were then or afterwards employed, who were seeking to compel North Carolina to pay at par with accrued interest second mortgage bonds which the General Assembly had declared should be (Continued on Third Page.)

The Day's Doings at Wilmington.

(Special to the News and Observer.)
Wilmington, N. C., Dec. 18.—Cape Fear Division No. 271, Order of Railway Conductors, have elected officers for the ensuing year as follows: J. M. Walker, C. C. W. L. Harlow, A. C. C. T. J. Payne, secretary and treasurer; DeLeon Pillyaw, S. C.; W. J. Turbeville, J. C.; J. O. Hinton, I. S.; J. P. Cutts, O. S.; W. L. Harlow, correspondent, and C. E. McCulloch, assistant respondent.

Congressman Bellamy had as his guests in the city yesterday Senator-elect A. C. Lattimer, of South Carolina, and Messrs. J. W. Widdeman and J. W. Barber, wealthy silk and flax manufacturers of Patterson, N. J. The Northerners were in this section prospecting for a mammoth game preserve, which they propose to establish in the South in the near future. They visited a number of points down the river and will make up their decision as to location of the preserve upon returning home.

FUNERAL OF GEN. MOORMAN.

It Will Take Place This Afternoon—The Body Lying in State.

(By the Associated Press.)
New Orleans, Dec. 17.—The funeral arrangements for General George Moorman, adjutant general of the Confederate Veterans' Association, who died suddenly last night, were completed today. This evening the body was taken to Memorial Hall, where it will lie in state guarded by Confederate veterans. The funeral will take place at 3 p. m. tomorrow, from the hall, and all the veterans' organizations have been invited to attend. Rev. A. Gordon Bixwell, a Confederate veteran, will deliver the sermon. Temporary interment will be in the tomb of the Army of Tennessee in Metairie cemetery, New Orleans.

Hearing in the Gambling Cases.

(By the Associated Press.)
New York, Dec. 17.—The hearing of the charge against David Bucklin as being manager of a gambling house at 5 East Forty-fourth street, the Canfield house, was commenced today. Bucklin pleaded not guilty and declined to make reply to the question "What is your business?"

Joseph Jacobs, the detective who is said to have gathered evidence against the house, was the first witness. He told how he obtained entrance to the house and played faro and roulette there. Bucklin, he said, received the men who came in and watched the different games.

At the examination of Samuel G. Smith, the alleged door-keeper at 23 West Thirty-third street, Farrell's alleged place, Detective Jacobs testified to having gained access to the place and having gambled there.

The Blind Pool Hard Hit.

(By the Associated Press.)
Chicago, Dec. 17.—Bulls and bears of the Chicago Board of Trade had a sharp and decisive struggle over December corn today. W. W. McCleary & Co. failed to respond to margin calls and the so-called "blind pool," headed by Thos. A. Cleage, of St. Louis, suffered a severe setback. December corn receded almost six cents during the day and showed a break of about eleven cents since earlier in the month.

Mr. McCleary declared that he could pay dollar for dollar and that he probably will be ready for business tomorrow. He said that his order to have all his trades closed was forced because of excessive calls upon him for margins.

French Demand on Peru.

(By the Associated Press.)
Lima, Peru, Dec. 17.—The French Legation here, presented to the Peruvian government on November 8, of this year, a claim for \$15,071,940 in favor of the Dreyfus Brothers, of Paris, in accordance with the finding of the Lausanne Court of Arbitration. Up to the present time the government has made no presentation of the claim, and it is probable that the French Legation tomorrow will reiterate its request for a settlement of this claim.

The Trust Buyers to Shut Up.

(By the Associated Press.)
Albany, N. Y., Dec. 17.—Laborers who have been working to put in readiness for resumption the great Breaker Island steel plant, formerly the property of the Troy Steel Company, have been notified that their services are no longer needed. It is announced tonight that the plant has been purchased by the United States Steel corporation for \$1,500,000, and that, in all probability, the works will not be operated.

THE HOUSE VOTES TO REDUCE DUTIES

On Products of the Philippines Brought Here.

A FIGHT FOR FREE TRADE

Mr. Richardson of Tennessee Leads This—The Senate Committee Will Report Favorably the Eight Hour Bill as Now Amended.

(By the Associated Press.)
Washington, D. C., Dec. 18.—The House today passed the bill to reduce the duties on the products of the Philippine Islands coming into the United States from 75 per cent of the Dingley rates (the present duties) to 25 per cent of those rates. The discussion of the bill was accompanied by considerable maneuvering on the Democratic side to secure test votes upon various amendments designed to lower the tariff barrier still further and a record vote was forced upon a motion to re-commit with instructions to report a bill providing for absolute free trade with the islands. The division upon this proposition was on party lines with the exception of Mr. McCall (Rep., Mass.), who voted with the Democrats.

The discussion of the Pure Food bill, which has been made a continuing order until disposed of, was begun. Mr. Tompkins (Ohio), and Mr. Adamson (Ga.), opened the debate respectively for and against the bill. Mr. Gardner (Mass.), opposed the bill. Mr. McCall's resolution calling on the State Department for the correspondence in the Venezuelan embargo was adopted at the beginning of the session. Mr. Hitt (Ill.), for the Committee on Foreign Affairs, reported the DeArmond and McCall resolutions calling upon the Secretary of State for the facts with relation to claims of Great Britain and Germany against Venezuela and generally for a statement of the diplomatic situation with reference to the Monroe Doctrine.

The report recommended that the DeArmond resolution be upon the table, and the McCall resolution which called for all the correspondence in the case, be adopted.

Mr. Richardson (Tenn.), asked why Italy and other European countries which were figuring in the controversy were not named in the resolution.

Mr. Hitt replied that he was advised that the correspondence was similar in each case. The recommendations of the committee were agreed to. The House then went into committee of the whole and took up the consideration of the bill reported by the Ways and Means Committee yesterday, to reduce the duty on articles, the growth and product of the Philippine Archipelago, from 75 per cent of the Dingley rates (the present tariff) to 25 per cent.

Mr. Payne explained the bill. The Philippine government, he said, needed revenue and for that reason it was impracticable to totally abolish the duties.

Mr. Richardson (Tenn.), said he believed any duty was unjust, unconstitutional and un-American, but he favored any reduction. He gave notice that he would vote to re-commit the bill with instructions to report it back amended so as to provide for free trade with the islands.

Mr. McClellan (N. Y.), recalled the fact that General Wright, vice-Governor of the Philippines, in a hearing before the Ways and Means Committee, expressed the opinion that the free importation of Philippine products would best subserve the interests of the islands.

Mr. Swanson (Va.), also argued in favor of free trade with the Philippines.

The bill was further discussed by Mr. DeArmond (Mo.), Mr. Ball (Tex.), Mr. Crumpacker (Ind.), and Mr. Greene (Pa.). All amendments were voted down in committee of the whole. In the House, Mr. Richardson moved to re-commit the bill with instructions to the committee to report it back amended so as to provide for free trade between the United States and the islands. The motion was defeated.

The Pure Food bill was then taken up. Mr. Adamson (Ga.), opposed it in an extended speech, taking the ground that the States could adequately deal with the situation. He said he believed thoroughly in the protection of the public against fraud, but he did not believe in imposing the task upon the Federal government. No one could contend, he said, that a State could not punish common cheats and swindlers if they deceived in that they sold one thing and delivered another.

JUDGES' SALARIES NOT SUBJECT TO TAX

Supreme Court Approves Attorney General's Opinion.

STATE OFFICERS EXEMPT

This is a Certainty in View of the Opinion Which the Full Court Ratifies and Highest Terms.

The judges of the State are not to pay taxes on their salaries.

That is the gist of the opinion of Attorney General Gilmer, adopted and endorsed by the Supreme Court of the State, and ordered filed, preserved and published in the Supreme Court Reports.

The court says this opinion settles the matter, and it does. It is not a case which can be carried to the United States Supreme Court, and it has reached the fountain head in North Carolina.

More than this. While the opinion says definitely that the salaries of the judges of the Supreme Court are not subject to taxation, on the basic ground that these salaries are not to be diminished during their continuance in office, it also settles that the salaries of the State officers cannot be taxed. The opinion does not say so, but nevertheless that is the effect.

The officers affected are the Governor, Lieutenant-Governor, Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction and Attorney General. The Constitution of the State says of the salaries of these officers not alone that they shall not be increased during the time for which they have been elected, but also that they shall not be diminished. Under the ruling of the Supreme Court, if the matter of the taxation of the salaries of these officers should come before it, the opinion rendered would be that these salaries are not subject to taxation.

The two letters which are herewith printed, and the opinion of the Attorney General, ratified and endorsed by the Supreme Court, explain fully the matter.

On the nineteenth day of November the following letter was sent to Attorney General R. D. Gilmer from the Supreme Court:

REQUEST FOR OPINION.

"The members of this court have heretofore been of opinion that their salaries were not subject to taxation, and for that reason have not listed them for that purpose. But the Corporation Commission has decided that they are, and has directed the county commissioners to collect the same. And as all the members of this court, and also all the judges of the Superior courts, are interested in the question, which would make it embarrassing, if not incompetent for them to sit upon it, hearing, therefore, as you are the legally constituted adviser of the government, the court has decided to ask your opinion upon this important question. And for that purpose the court have requested me to write you this letter, and whatever your opinion may be, it will be filed for the guidance of the court in this matter.

"Hoping you will favor the court with such opinion at as early a date as it may suit your convenience, the court respectfully awaits the same.

Very respectfully,
D. M. FURCHES,
Chief Justice Supreme Court N. C.

OPINION IS RENDERED.

Under date of December 16, Tuesday of this week, the Attorney General submitted the opinion to the court. Yesterday, December 18, the opinion was handed down, accompanied by the following letter, addressed to Col. Thos. S. Kenan, Clerk of the Supreme Court:

Dear Sir: I herewith hand you the correspondence between Attorney General Gilmer and myself with regard to the right of the Legislature to tax the salaries of the judges. And in doing so, I wish to say that it is a full, able and indeed an exhaustive discussion of the subject involved, and in my opinion a correct decision of the question.

It has been read to the court sitting in conference and approved without a dissenting voice. It was then ordered by the court that the Attorney General's opinion, together with my letter to him and this letter to you, be filed and preserved among the records of your office, and be published in the 131st volume of the Supreme Court Reports.

It was then resolved that the court would consider this opinion of the Attorney General as settling the matter therein discussed, to the same extent as if it were the opinion of this court.

Very respectfully,
D. M. FURCHES,
Chief Justice.

FULL TEXT OF OPINION.

The opinion written by Attorney General Gilmer is dated December 16, 1902, and addressed to Chief Justice Furches, reads as follows:

"I have the honor to acknowledge the receipt of your favor of recent date in which my opinion is asked upon a question involving the liability of the official salaries of the Chief Justice and the Associate Justices of the Supreme Court of this State to taxation. In discharge of the duty imposed upon me by section 3363, sub-section 4 of the Code, I have the honor to submit the following: The doctrine that the power to tax is an essential element of government, and that the Legislature, in its exercise is

CASTRO HAS CLOTHED BOWEN WITH FULL POWERS.

It is Believed That the Crisis in Venezuela is Now Past.

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He Must Obtain the Consent of the State Department Before Entering Upon the Task of Effecting a Settlement, Assuming That the Allied Powers Will Raise no Objections.

(By the Associated Press.)
Washington, D. C., Dec. 18.—President Castro has clothed Minister Bowen with powers to effect a settlement with Great Britain, Germany and Italy. Mr. Bowen simply awaits the consent of the State Department to assume this task, assuming that the nations named are willing that he should undertake this work. It is believed that the critical phase of the Venezuelan difficulty is passed.

Whether the consent of the governments mentioned can be obtained, will, it is believed here, depend entirely upon the sufficiency of any guarantee that can be given for the faithful discharge by President Castro of any obligations he may assume as the result of Mr. Bowen's efforts. The allies feel that they must be assured against the consequences of another revolution and the repudiation by the President who may follow Castro in his undertakings. The effort to induce the United States government to act as guarantor, it is safe to say, will not succeed, and it is beginning to appear that there is likely to be a mixed commission appointed to receive all Venezuelan customs and, setting apart a certain portion for the maintenance of the Venezuelan government, distribute the remainder among the powers with their obligations met.

The government of France has now entered the field as an active party in interest in the Venezuelan trouble. The French government has, through its Ambassador and charges and Ministers, served notice upon the governments of Great Britain, Germany and Italy, and as information has told Secretary Hay that any provision made for the settlement of the claims against Venezuela must recognize the pre-eminence of the French claims. The French government, to receive assurance from the other governments named any arrangements would provide for the security of the French interests in the Venezuelan customs.

WILL NOT GO TO VENEZUELA.

No Concentration of a Large American Naval Force at La Guaira.

(By the Associated Press.)
Washington, Dec. 18.—The Navy Department contributed the most important development in the Venezuelan situation over night in the form of a cablegram from Admiral Dewey, announcing the proposed itinerary of the vessels of his fleet during the Christmas holidays. It is clearly seen that the plan provides for no undue concentration of ships along the Venezuelan coast and so prudently and advisedly Secretary Moody, today cabled to the Admiral the Department's approval of his orders. This will set at rest the rumors that the United States contemplate complicating the Venezuelan situation by dispatching a large naval force to La Guaira as an offset to the allied fleet.

Admiral Dewey's cablegram, dated San Juan, December 14, follows:

"Proposed itinerary of vessels for Christmas holidays: Kearsarge, Alabama, Massachusetts, Iowa, Scorpion, to Trinidad; Illinois, Indiana, Hiatt, to St. Thomas; Texas, to Pointe-a-Pitre; Chicago, Newary, Eagle, to Curacao; San Francisco, Albany, Wasp, to Mayaguez; Cincinnati, Atlanta, Prairie, tugs and dredge boats to San Juan; Culgoa, to Mayaguez and San Juan; Olympia, Nashville and Machian, to St. Kitts; Detroit, to Antigua; Mayflower, and Vixen to Porto Rican waters and vicinity; and the Dolphin to Antigua and vicinity."

In reply Secretary Moody sent the following cablegram:

"Carry out proposed itinerary. Merry Christmas."

GERMANY DEMANDS APOLOGY.

Unwilling to Arbitrate, Her Refusal May be Accompanied by Fresh Suggestions.

(By the Associated Press.)
Berlin, Dec. 18.—Aside from the financial claims mentioned in her ultimatum, Germany expects some form of apology from Venezuela for the diplomatic insults which the Foreign Office says are more serious and more gross than those of which Great Britain complains. The Foreign Office is again calling attention to the suspicions in the United States at least Germany effect a landing in Venezuela. It says a refutation of such suspicions ought to be perceived in the slender forces at the disposition of Germany. There are scarcely three hundred men who could be spared from the (Continued on Page Five.)

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