

EVASIONS OF LAW BY AUTHORITIES

Charged by the State Superintendent

WRITES TO OFFICERS

County Superintendent and Board of Education Instructed to Investigate All Records of State, County, City, Town and Other Courts.

State Superintendent Joyner is issuing to county superintendents, county boards of education, county treasurers, judges, solicitors and clerks of the superior courts, and mayors of towns and cities, a circular letter containing a compilation of the law in regard to fines, forfeitures and penalties and reports of these required by law of the various officers of the various courts. Under section 5, Article IX of the Constitution of North Carolina, all fines, forfeitures and penalties are appropriated by the Constitution to the public school fund of the county. The Supreme Court has decided, in the case of School Directors vs. the City of Asheville, that all such fines, forfeitures and penalties imposed by municipal officers for the violation of town or city ordinances, or for any other misdemeanors, belong to the common school fund of the county under this clause of the Constitution.

The letter calls attention to the evasions of the law by the authorities of some of the towns and cities, and to other losses to the school fund from the failures of justices of the peace, clerks of the court, and others, to report and turn over promptly to the county treasurer such funds. It calls special attention to the fact that an investigation of the records of some of the Superior Courts of the State shows that in many cases all the costs of the original criminal action have been taxed against the defendant and paid out of these forfeitures; and that the commissions of the solicitors in such cases have exceeded the 5 per cent fixed by the statute, amounting in many instances to as much as 20 per cent. An official opinion of the Attorney General is printed, holding that no part of the costs of original criminal actions can be paid out of forfeited bonds, recognizances or cash deposits; that only the costs and expenses attached to the suit can be paid out of these; and that the entire balance must, under the Constitution, be turned over to the county school fund.

The letter calls attention to some of the ways resorted to by some of the towns to divert fines and forfeitures from the county school fund into the town treasury, and prints another letter from the Attorney General holding that all such evasions are illegal. The county superintendents and the county boards of education are instructed to investigate carefully all records of State, town, city and other municipal courts, and to take such steps as may be necessary for the strict enforcement of the law, the collection of all fines, and the refunding of all diverted funds due the county school fund. They are directed to employ, if necessary, attorneys or expert accountants.

The State Superintendent states that he has reason to believe that the school fund is losing hundreds, and perhaps thousands, of dollars annually from the failure to enforce strictly the laws relating to fines, forfeitures and penalties.

The letter from Attorney General Gilmer to Superintendent Joyner is as follows: "Hon. J. Y. Joyner, Supt. Public Instruction, Raleigh, N. C. "Dear Sir: In reply to the inquiry with reference to the legality of the practice therein mentioned by the police authorities of said town, with reference to the manner of collecting and the disposition of fines imposed for the violation of the ordinances of the said town, I have the honor to submit the following: "The Constitution of the State, by

section 5, Article IX, as well as section 4107 of the Revised, provides that "the clear proceeds of all penalties and forfeitures and of all fines" for the violation of the penal laws of the State shall belong to the county school fund.

"The Supreme Court of the State, in several cases, has decided that all fines and penalties collected by municipal officers for the violation of ordinances of towns and cities belong to the common school fund of the county; and by section 4108 of the Revised it is made the duty of the clerks of all State and municipal courts and the clerks or other officials having in custody the records of any city or town in the State to furnish to the County Board of Education of their respective counties, on the first Monday of July and January of each year, a detailed statement of fines, forfeitures and penalties which go to the school fund, that have been imposed of which they have accurate records. This section, as well as the orderly procedure which should obtain in all municipal courts of the State, requires that a record shall be kept by the authorities thereof, and that, at stated periods, as provided in section 4108 of the Revised, a detailed statement of all fines, forfeitures and penalties that have been imposed, or which may have accrued, shall be furnished to the County Board of Education.

"I am of the opinion that the practice resorted to by the police authorities of the said town is clearly illegal and absolutely unwarranted under the laws of this State, as construed by our Supreme Court. "I am further of the opinion that a willful violation of section 4108, which requires officers to report the fines and penalties to the Board of Education, would make the party so offending guilty of a misdemeanor and liable to indictment. "Very truly yours, "R. D. GILMER, "Attorney General."

IN THE SUPERIOR COURT.

Two Cases Heard Yesterday—Mr. Bailey's Maiden Speech Failed to Persuade; Though It Fascinated.

Two cases only were heard in the Superior court yesterday, the case of Fitts-Crabtree Company vs. J. D. Boushall for the balance due on a contract of purchase of a boiler being determined in favor of the plaintiff by a judgment for the balance due on the note with interest and costs; and the other being the case of Pool vs. Crenshaw, brought into the Superior court on exceptions to the report of a referee and concerning the title to land. The latter case is now in progress of trial.

In the matter of the boiler there was considerable testimony pro and con as to whether the piece of machinery in question was or was not "40 horse-power," the employees of the defendant testifying that they had never been able to make it get up that much steam and Mr. W. C. Cram, for the plaintiff testifying that the boiler was a standard one and that it should produce slightly over forty horsepower. Mr. Cram was definite in his opinion as to the fact that Mr. J. W. Bailey cross-examined him from a book in which it was stated that there was no such thing as "horse-power" in connection with a boiler. The witnesses for the defendant admitted, on the other hand that they did not know how to measure the "horse-power" of a boiler, but just guessed at it. While Mr. Cram's explanation of the failure to make steam was that the boiler was placed in a bottom near a creek, a location in which no self-respecting boiler would steam up unless it were built high off the ground.

All this of horse-power and steaming preceded argument in the case in which John Messers, Jones, Bailey and Lyon for the defendant against Mr. W. B. Snow, for the plaintiff. Mr. Bailey's maiden speech was a dandy, showing that absence from Baptist associations in the study of the law had not lessened the potency of his tongue but if anything had rested his throat. When Mr. Snow came to reply he congratulated Mr. Bailey, saying that he had made the best maiden speech he had ever heard, "not excepting my own."

In spite of the unmalicious, nay manly, manner of Mr. Bailey's maiden effort, the jury was not convinced.

SUPREME COURT QUIETS DOWN.

Dynamite Case Gives Way to Old Class of Legal Provender.

Argument in the Supreme Court, which on Wednesday took a fervent turn in the discussion of whether a gentleman who shoots at a knot hole and explodes a ton of dynamite is guilty of contributory negligence and whether the dynamite or the pistol was in such case the proximate cause of an injury that devastated the landscape, took a deep breath yesterday and went off into the mining ways of legal fields better sprinkled with precedents. Cases argued during the sitting of the court were: Cox et al. vs. Commissioners, from Pitt, by Jarvis and Fleming for the defendant; no counsel contra. Gray vs. James et al. from Pitt, Jarvis, Moore and Long for plaintiff; Skinner, James, for defendant. Barnhill vs. R. R. Co., from Pitt, Julius Brown for plaintiff; Skinner for defendant. Gillikin and Gaskill vs. Canal and Water Co., from Cherokee, Abernethy and Davis for plaintiff; Moore and Dunn for defendant. Hawk vs. Lumber Co., from Craven, D. S. Ward for plaintiff; Clark, A. D. Ward, Moore and Dunn for defendant. The docket for the Third district is so full that it is improbable that the court will be able to hear argument in all appeals during this week. Such cases as are left over go, under the rule, to the foot of the calendar.

CONGRESSIONAL SUMMARY.

Both Houses Adjourn on Account of Death of Senator Lattimer. (By the Associated Press.) Washington, D. C., Feb. 20.—Because of the death in the city today of Senator Asbury C. Lattimer, of South Carolina, both branches of Congress adjourned, the Senate almost immediately after convening, and the House an hour afterward upon receiving official notification of the Senator's death. In each chamber resolutions of regret were unanimously adopted, and a committee ap-

AN AGE OF PROGRESS In Medicine as Well as in Art and Science.

"This is an age of progress in the world of medicine as well as in arts and science. This is demonstrated by the remarkable discovery after years of research by two eminent French chemists of the process by which the curative, medicinal elements of the God's Liver may be separated from the oil, thus getting rid of that nauseating part of this valuable remedy. In Vinol modern science has given to the world a most delicious cod liver preparation without oil made by a scientific, extractive and concentrating process from fresh cod's livers, combining with peptonate-of-iron all the medicinal, healing, body-building elements of cod liver, but no oil. As a body builder and strength creator for old people, delicate children, weak, run-down persons, after sickness, and for Chronic Coughs, Colds, Bronchitis, and all throat and lung troubles, Vinol is unexcelled. No one wants an old-fashioned cod liver oil preparation or emulsion after once tasting delicious Vinol. Try it on your guarantee to return your money if it fails to give satisfaction. W. H. King Drug Co., Raleigh, N. C.

pointed to accompany the body home. Most of the time the House was in session was consumed in the reading of impeachment charges offered by Mr. Waldo, of New York, against Federal Judge Leblus R. Willey, of the United States Court at Shanghai, China, which were referred to the committee on the judiciary. The passing of the sentence of death upon Lieutenant General Stoessel is a harsh and tragic ending to the career of the Russian commander who, three years ago, was acclaimed around the world as the "hero of Port Arthur." The basis of the indictments upon which Lieutenant General Stoessel, General Fock, who commanded the fourth Asiatic Siberian division of Port Arthur, and Major General Reiss, chief of staff to General Stoessel, were tried for their lives was a secret report made by Lieutenant and General Smirnof on the defense of Port Arthur. Smirnof was acting commander of the fortress, Stoessel, being commander of the Kwang Tung Peninsula. Smirnof categorically accused Stoessel of cowardice and incapacity, and finally of the deliberate and treasonable hastening of the surrender to save his own life and defiance of the decisions of two successive councils of war. General Smirnof declared that the fortress, which was surrendered to the Japanese January 1, 1905, could have held out for six weeks longer. The stands taken by General Stoessel, Reiss and Fock was that the fate of Port Arthur was sealed with the capture of the "Eagles Nest" and two other positions. The indictment against General Smirnof charged him with having failed to remove General Fock from his command, although he suspected the agreement between General Stoessel and Fock to surrender the fortress. Anatole Mikhalovitch Stoessel was born in 1848 and entered the army in 1864. He comes from a family of military men. He served with the Bulgarian militia during the Russo-Turkish war of 1877-78, and participated in the Chinese expedition of 1890-91. He was the first commander to enter Tien-Tsin during the Boxer uprising and rose to the rank of major general for dash displayed in the attack on the Chinese capital. Stoessel has been a most severe disciplinarian. It is related of him that he has sentenced many men to death for infractions of the regulations.

REVIVAL SERVICES Work of Evangelism at the Tabernacle

Noted Preacher of the Southern Baptist Church, and Dr. A. C. Dixon, the Great Native North Carolina Diviner.

Rev. J. C. Massee, of the Baptist Tabernacle, stated yesterday that Rev. W. W. Hamilton, D. D., of the Home Mission Society, Department of Evangelism, of the Southern Baptist Convention, will preach at the Tabernacle during two weeks in March, and his singers, Mr. and Mrs. George, will assist him in the meetings. Dr. Hamilton will arrive during the week following Sunday, March 8th, but Mr. and Mrs. George will sing at the Tabernacle on the 8th. Dr. Hamilton is considered one of the most fervid and powerful preachers in the Southern Convention, and is the evangelist of the Southern Baptists. He was in Raleigh six or seven years ago and made a deep impression upon his congregation.

Following the evangelistic services conducted by Dr. Hamilton, Dr. A. C. Dixon, of Chicago, North Carolina's greatest native Baptist preacher who has distinguished himself in the religious world during the present generation, will hold a series of meetings at the Tabernacle to last one week. After leaving Raleigh, Dr. Dixon will go to Wilson, where he will hold union evangelistic meetings.

Lattimer Is Dead

(Continued From Page One.)

Carolina, Fairchild, New York; Keurmann, Wisconsin. As a further mark of respect the House at 1:12 p. m. adjourned. The immigration commission, of which Senator Lattimer was a member, adopted resolutions of regret for his death, saying: "His associates upon the Immigration Commission desire to express not only their sorrow at Senator Lattimer's untimely death, but also their recognition of his zealous service as a member of the commission and of the energy and ability which he brought to the performance of this important public duty; To the family of Senator Lattimer the commission offers its deepest sympathy in the heavy affliction which has come upon them."

Senator Tillman today telegraphed to Governor Ansel, of South Carolina, informing him of the death of Senator Lattimer and that Vice-President Fairbanks will formally communicate the fact that a vacancy now exists in the Senate. The Legislature of South Carolina is now in session and will elect a Senator to succeed Mr. Lattimer. The Tarboro Leader is the name of the new paper in Edgecombe's capital. Mr. J. Edgar Dupree is editor and R. Theo. Perrin business manager. It looks well and aims to advance every good interest in Edgecombe county.

MURDER ON BOARD.

George Dixon Kills Walter Weichert at San Juan—Cut His Head Off. (By the Associated Press.) San Juan, P. R., Feb. 20.—George Dixon a carpenter on the American collier Abarenda, killed Walter Weichert, chief officer of the collier this afternoon the crime was committed on board the vessel. Dixon swung at Weichert with an axe and completely severed his head. The attack was made just as Weichert was walking away from the carpenter's bench, where he had been talking with Dixon. Weichert recently had Dixon placed in irons on account of disobedience of orders and this

STOP THE STRENUOUS LIFE

Weakens the Tissues and Lessens Organic Vitality. The stress and strain of the strenuous life in both city and country tends toward nervous troubles. Five people suffer today where one did ten years ago with sick headache, dizziness, faintness, distress after eating, specks before the eyes, bloating, nervousness, sleeplessness and the many other symptoms of indigestion. All who are suffering with stomach troubles, and that means at least two out of three in Raleigh and other towns, should use Mi-o-na stomach tablets. Nothing else is as safe, yet effective; nothing else can be so thoroughly relied upon to relieve troubles from indigestion as Mi-o-na. So reliable is Mi-o-na in its curative action that W. H. King Drug Co. and King-Crowell Drug Co., with every 50-cent box they sell, give a guarantee to refund the money unless the remedy cures.

A YEAR AGO TODAY

Great Anniversary at Society Hall

Letter From Mr. S. J. Warriner Showing How He Holds the Anniversary in Grateful Remembrance. Writing from Society Hill, S. C., on an important anniversary, Mr. S. J. Warriner, in a letter says: "One year ago today I took the Keeley Treatment at your Institute for the whiskey addiction, and I can say with a clear conscience that I have never since had any desire for stimulants. "I am now getting along nicely in business; my health is good and I feel altogether like a new man. I will be glad at any time to recommend your treatment to any one needing it. I was a steady drinker for twenty-three years prior to going to your Institute, and I can say with perfect honesty that I am now a cured man. I feel that I owe this entirely to the Keeley Institute at Greensboro, N. C., which I will always hold in grateful remembrance for the kind and courteous treatment I received while there. "Hoping that I may have the pleasure of seeing you all again sometime and wishing you continued success in your great work, I am, Very Truly yours, "S. J. WARRINER. The above letter was written to Mr. C. D. Cunningham, manager of the Keeley Institute, Greensboro, N. C. You may aid others if you will send names of those needing treatment to Mr. Cunningham. Correspondence confidential.

Nations Bow The Head In Shame

(Continued From Page One.)

In honor of the defenders of the fortress. The passing of the sentence of death upon Lieutenant General Stoessel is a harsh and tragic ending to the career of the Russian commander who, three years ago, was acclaimed around the world as the "hero of Port Arthur." The basis of the indictments upon which Lieutenant General Stoessel, General Fock, who commanded the fourth Asiatic Siberian division of Port Arthur, and Major General Reiss, chief of staff to General Stoessel, were tried for their lives was a secret report made by Lieutenant and General Smirnof on the defense of Port Arthur. Smirnof was acting commander of the fortress, Stoessel, being commander of the Kwang Tung Peninsula. Smirnof categorically accused Stoessel of cowardice and incapacity, and finally of the deliberate and treasonable hastening of the surrender to save his own life and defiance of the decisions of two successive councils of war. General Smirnof declared that the fortress, which was surrendered to the Japanese January 1, 1905, could have held out for six weeks longer. The stands taken by General Stoessel, Reiss and Fock was that the fate of Port Arthur was sealed with the capture of the "Eagles Nest" and two other positions. The indictment against General Smirnof charged him with having failed to remove General Fock from his command, although he suspected the agreement between General Stoessel and Fock to surrender the fortress.

REWARD OFFERED.

For Apprehension of Granite Quarry Bank Robbers.

Governor Glenn yesterday offered a reward of \$100 for the apprehension of the robbers who broke into the bank at Granite Quarry last Saturday night carrying away \$3,700, and locking up the cashier, W. G. Whisman, in a vault. Local parties are raising the sum of \$400 to go with the reward offered by the Governor. Granite Falls seems to be infested with looters. The postoffice there was robbed Tuesday night and a quantity of stamps and cash were stolen, the robbers escaping.

NEW MINISTER CALLED.

To the Pastorate of West Raleigh Baptist Church.

The business conference of the West Raleigh Baptist church has called to its pastorate Rev. A. A. Crater, of Wake Forest, formerly of Fuquay Springs. The church is said to be free from debt save the amount of \$123 which will be paid as soon as the treasurer's report is submitted. Many improvements have been made in the church. Mixed the Boddies.

LAND FOR SALE.

By virtue of a decree of the Superior Court of Wake County, made in the case of M. E. Gooch, administrator of R. H. D. Gooch, deceased, and others, as parties, will sell by auction for cash on the premises at 15 o'clock on SATURDAY, MARCH 14, 1908, a tract of land containing 50 acres, situated in Oak Grove township, Wake county, adjoining the lands of John Beck, Elijah Huskett, Ezra Perrell and R. H. D. Gooch tracts, being part of the land formerly owned by Sandy Penny, and being owned by R. H. D. Gooch at the time of his death. Sale is made for assets. For further particulars apply to M. E. Gooch, Raleigh, R. F. D. No. 6. J. H. FLEMING, 21-aw-1mo. 21-aw-1mo

Death of Mr. T. C. Uzie.

Mr. Thomas C. Uzie died at his home, Wakefield, N. C., on the night of February 18th, of pneumonia. His wife, who was Miss Maria Penny, of Franklin county and five children survive him. Mr. Uzie was a brother of M. P. W. C. A. B. and W. S. Uzie, Mrs. J. T. Hester, of this city; Mary M. Uzie, of Salisbury, and Mrs. A. B. Wester, of Franklinton, N. C. Bryan the Strongest Candidate. "A few months ago I was inclined to believe that Bryan was not the strongest man the Democrats could nominate for the Presidency, but I have changed my mind," said former Representative Marcus C. L. Kilne, of Allentown, Pa., to the Washington Post. "It is now my opinion that the rank and file of the people of my district and of the State are for Bryan, and I believe he will get the Pennsylvania delegation in the Democratic convention, and that he will be nominated. I also believe that he will have a good chance of election. As for the Vice Presidency, I have not thought much of that, but coming from Pennsylvania, I should say that the strongest man I know of whom the Democrats could name is former Treasurer W. H. Berry. He is the only Democratic State officer in Pennsylvania. Judge Harmon, if he would accept, would add great strength to the ticket, but he also would make an excellent man to lead the ticket. Have checked my mind," said former Representative Marcus C. L. Kilne, of Allentown, Pa., to the Washington Post. "It is now my opinion that the rank and file of the people of my district and of the State are for Bryan, and I believe he will get the Pennsylvania delegation in the Democratic convention, and that he will be nominated. I also believe that he will have a good chance of election. As for the Vice Presidency, I have not thought much of that, but coming from Pennsylvania, I should say that the strongest man I know of whom the Democrats could name is former Treasurer W. H. Berry. 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