THE ONLY DAILY PAIER IN NORTH CARCLINA THAT HAS OVER 11,000 SUBSCRIBERS

THE WEATHER TODAY
Washington, D. C., Sept. 15.—North Carolina, fair Wednesday; Thursday, fair, warmer in west portion; fresh and brisk northeast and east winds diminishing.

# The News and Observer.

WEATHER YESTERDAY.
Maximum temperature, 72; minimum temperature, 64; total precipitation for 24 hours ending 8 p. m., 0 inches.

VOLUME LXXXVI, NO. 100 RALEIGH, N. C., WEDNESDAY, SEPTEMBER 16, 1908 PRICE 5 CENTS

## Leads all North Carolina Dailies in News and Circulation

# TAFT CANNOT ESCAPE THE ISSUE

### Mr. Bryan Again Challenges Him to Explain

### WHAT HE INTENDS TO DO

### "No President to Help Me With His Patronage"

**The Democratic Candidate Replies to Taft, Again Challenging Him to Meet the Issues Squarely and Tell the People What He Will Do If Elected—Says His Nomination for a Third Time in the Face of Two Defeats With No President to Help Him With Federal Patronage Has Been Due Only to The Growth of the Ideas for Whit He Stands—His eynote Address in New Jersey.**

(By the Associated Press.)
Trenton, N. J., Sept. 15.—Pouring hot shot into Mr. Taft and the Republican party at every point where he stopped, William J. Bryan tonight, in this city, oncluded a arenuous day of campaigning in New Jersey, following a few hours in Philadelphia, where, in front of a newspaper office and before a great throng, he arraingned the Republican organization of that city and expressed his sorrow for people who he said were compelled to live under its rule. Switching into national pol"ics, he asserted that the Republican standard bearer promised that there would be no panics and that Mr. Roosevelt, as Mr. Taft's godfather, promised the same thing. He wanted to know how Mr. Taft could prevent panics when Mr. Roosevelt already had one on his hands.

Mr. Bryan's reception in New Jersey was a demonstrative one.

At Washington Park, on the New Jersey side of the Delaware river below Philadelphia, he addressed more than twenty thousand persons, his audience according him an ovation.

En route here Mr. Bryan spoke at Camden and Burlington to great crowds and shook hands with many hundreds of persons. Standing on the rear platform of his car in Camden, the Democratic candidate assured his hearers that the voters were studying the issues of the campaign. He declared that in every State the changes were in the direction of the Democratic party, and that there was no place in the United States where the changes were from that party. Incidentally he again attacked T. Coleman Dupont, of the Republican Executive Committee, reiterating his former charge that Mr. Dupont, as a trust magnate, was unfit to occupy the position of attempting to institute reforms. Along the line from Camden here stops were made at a dozen places, at all of which large crowds turned out and gave him an enthusiastic welcome.

Br. Bryan's speech in this city tonight covered much of the same ground gone over during the day.

Taylor Opera House, where he spoke here, was crowded. Seated on the stage were a number of the members of the Democratic State Committee, including State Chairman James R. Nugent. The meeting was enthusiastic and contained many Democrats who had been opposed to Mr. Bryan in his former campaigns. Among those occupying seats in the boxes was Former Supreme Court Justice Van Syckle.

Mr. Bryan left on a late train for Rochester, N. Y.

Philadelphia, Sept. 15.—"Mr Taft is dodging. He cannot escape from the issues. He has accepted the nomination of his party. Now let him take the oepple into his confidence and interpret his platform so that the public will know where he stands and what he intends to do."

In these words William J. Bryan in an interview today issued another challenge to Mr. Taft, in replying to Mr. Taft's utterances printed this morning. Continuing, he said:

**"Instead of defining his position on public questions, Mr. Taft is inquiring about my record, and in his inquiry he shows that he knows as little about my record as he does about the public questions which he has attempted to discuss. He accuses me of being changeable and of abandoning issues."**

Mr. Bryan said he has been a tariff reformer for twenty-eight years, has advocated the election of Senators by the people for twelve years and has been favoring an income tax for fourteen years, and Mr. Taft is only now coming around to his position on these questions.

**"I said in 1898 that the Filipinos ought to have their independence. Mr. Taft has this year admitted that the people must ultimately have independence. I have maintained my position. I have also discussed the Philippine question in this campaign and called attention to the fact that Mr. Taft made a mistake of $114,000,000 in his estimate of the cost of imperialism.**

**"On the railroad question he has expressed himself as strongly as I have. He has said, and the President also**

(Continued on Page Three.)

# PEOPLE OF POLK GIVE AN OVATION

### Kitchin and Aycock Address Big Crowd

### THAT MAN WHITENER

**Radical Elector Delivered a Speech at King's Mountain, Which Was Not Decent, and Aycock Says so—The Next Governor and Aycock at Hendersonville Today.**

Special to News and Observer.)
Tryon, N. C., Sept. 15.—Escorted by a crowd of horsemen, with a reception committee in a score of carriages and headed by a brass band, Governor W. W. Kitchin and B. F. Aycock addressed the Democracy of Polk county at Columbus, today. About 800 people listened to two soul-stirring talks. The enthusiasm was intense and at times the crowd went wild.

Governor Kitchin said he had addressed larger crowds, but never a more attentive one. He ended a scathing arraignment of the Republican party in this State by an earnest appeal to the Republican young men present to leave that party which stood no possible chance of success in this state and to help make the Democratic majority a gigantic one. He said there should be but one party in this State—the Democratic party.

Yesterday they spoke to 2,500 peo-

(Continued on Page Three.)

# FOR CUMBERLAND FARMERS

### They Hear Addresses by Congressman Godwin and Experts

**Cumberland Democrats Hold Enthusiastic Meeting and Organize a Lively Bryan and Kitchin Club, E. W. Nolley President.**

(Special to News and Observer.)
Fayetteville, N. C., Sept. 15—A well atended enthusiastic meeting was held in the Cumberland county court house for the purpose o organizing a Bryan and Kitchin Club, pursuant to a call by Maj. E. J. Hale, a close friend of Mr. Bryan's, Mr. C. G. Rose, Democratic committee chairman, and H. L. Cook, presidential elector for this district. Mr. E. W. Nolley was elected president. The meeting was addressed by Major Hale, who told of the prospects for Democratic success, observed by him during his recent trip through the West; by Elector H. L. Cook and several others. The meeting was marked by great enthusiasm.

A large number of citizens of Cumberland, chiefly farmers, met here today to hear addresses by Messrs. J. O. Wright, M. S. Eldridge and C. R. Hudson, of the United States Department of Agriculture, on the subject of drainage, good roads and experiment farming.

The conference which was opened by Maj. E. J. Hale, was first addressed by Congressman H. L. Godwin, through whose efforts the services of these experts was secured.

Mr. Wright, who made an earnest appeal for the reclamation of the great areas of swamp land now unused, is a native of North Carolina, but is a resident of Indiana.

The unknown white man who was shot Sunday night by Atlantic Coast Line Detective Scarborough is now dangerously ill at the Highsmith Hospital here.

### BRYAN-KITCHIN CLUB

**To Be Organized in the Court House in Wilson, Thursday Night, September Seventeenth.**

(Special to News and Obserevr.)
Wilson, N. C., Sept. 15.—About ten days ago it was announced through the columns of the **News and Observer** that a Bryan-Kitchin Club would be organized here at that time, but owing to the failure of the chairman of the Democratic executive committee to secure a speaker, the organization of the club was deferred. The matter is a fixed fact now, and on next Thursday night, September seventeenth, the Democratic candidate for State Auditorship, Dr. B. F. Dixon, will speak, after which the club will be organized. It is to be hoped that the attendance will be full and the enrollment large.

### FIVE HUNDRED DOLLARS A DAY

**This is About the Average at the Wilson Dispensary for the Week Ended September Thirteenth.**

(Special to News and Observer.)
Wilson, N. C., Sept. 15.—The dispensary has no kick coming—they get their portion of the large amounts paid out here daily by our banks. For the week ending Saturday night last the receipts were about three thousand dollars. Saturday's sales reached nearly the eight hundred dollar mark. A few more months and this blight will be swept from the borders of the grand old State—and we make this prediction right here that after January first the boarders at the county jail will be greatly diminished in numbers.

### Become Presidential Offices.

(Special to News and Observer.)
Washington, D. C., Sept. 15.—The postoffices at Bryson City and Clarkton become presidential offices October 1, with salary $1,000 and $1,100 respectively.

# OUR GOVERNMENT NOT OF THE PEOPLE

### Forsyth Democracy Opens Its Campaign

### SENATOR OVERMAN HEARD

**The Senator Greeted With a Storm of Applause, Delivers a Powerful Address to an Audience That Overflows the Court House—Reviews the History of the Country and Shows That it Has Drifted Froni Its Moorings.**

(Special to News and Observer.)
Winston-Salem, N. C., Sept. 15.—Amid cheers from an audience that overflowed the court-house, and the music of bands, the Forsyth Democracy opened its campaign tonight with unbounded enthusiasm. At 7:30 o'clock the Winston Cornet Band opened the exercises by a serenade of the speaker, United States Senator Lee S. Overman, at the Zinzendorf, and at 8 o'clock the march was made to the spacious court-room. Chairman G. H. Hastings called the assembly to order by announcing that on next Friday night a Democratic club would be formed. He then presented Mr. Wm. T. Wilson, an able and promising young attorney, who in introducing the speaker, reviewed the great achievements of the Democracy of the State and nation, spoke of the great men it had given our country and wound up with a magnificent tribute to the public services of our distinguished Senator.

As Senator Overman arose he was greeted by a storm of applause. After speaking of his natural attachment for Winston-Salem, it being the place where he began his life's work as a teacher, the Senator opened his speech by a brief review of the history of our country, leading up to the formation of the two political parties. "Alexander Hamilton formed a party," said he, "that believes that the people are unable to govern themselves. I tremble when I see the tendency to a strong centralized government. Mr. Taft himself said, 'I believe in the teachings of Alexander Hamilton.' I call to mind the assertions of Senator Beveridge that 'I am a nationalist;' I call to mind the warning of that grand old man, Senator Tiller, who left the Republican party, who in the closing days of Congress warned us that the encroachments upon the rights of the States would ultimately destroy this republic."

The speaker reviewed the efforts of the Republican party to tear down the rights of the States. "They attempt," said he "to make a law that on every bale of cotton goods shall be a stamp saying that no child under fourteen years of age worked in the factory that manufactured it. If they can do that, why can't they require the stamp to also say that no child under fourteen picked the cotton. There is no end to this.

"Where did the government get any such police power?" The government of this country is no government of the people, by the people or for the people, but a government of the office-holders, by the office-holders and for the office-holders. Mr. Roosevelt is trying to name his heir to the Presidency. He forced his subordinate office-holders to name Taft. You Republicans wanted Cannon or Fairbanks, but his office-(holders forced Taft upon you. Now suppose Taft is elected and he names his successor, are we not on dangerous ground?"

**Description of The Panic.**

The most effective part of the great speech was the Senator's description of the panic." The country was prosperous, were bountiful—corn was bursting from the swollen cribs and suddenly a panic came. Hundreds of thousands out of employment, children in the Northern cities crying for bread, five hundred thousand idle men going back to the old country taking with them over five hundred million dollars." Here he paid a great tribute to Mr. Cleveland, recalling how he had been so badly abused by the Republican papers on account of the panic that occurred during his administration, and how when he was dead, these same Republican papers read with each other in praise of him. Fellow citizens did you know that two banks in New York control the money of the country and control the government. I quote from Senator La-Follette to the effect that the Standard Oil bank and Morgan's bank control the great railroad of the country, fourteen directors of one of these banks controlled 38 per cent of all the industries of the country. My friends they control about everything and if they could they would control the sunshine and sell it to us at so much per quart. And these men have the Republican party by the throat. Here the speaker contrasted the two parties in the present battle. He paid a great tribute to Bryan, saying that he did not favor him when he started to the convention, but when he got beyond the Mississippi, he saw that the whole country was clamoring for him and he was proud when he got there to vote for him. He predicted his election while the crowd went wild. For several minutes cheer after cheer went up. The Senator scored the Republicans for the rottenness of financial system. The Aldrich bill was passed as Morgan sat in the gallery rotten to the core and put the finances of this country in the hands of the Wall street bankers for at least six years. The two greatest Republican papers in this country denounced it.

—Mrs. Adelaide W. Bagley, of Washington, D. C., is in the city, the guest of her daughter, Mrs. Josephus Daniels.

—Mrs. M. J. Carroll, who has been spending several days visiting friends at Fayetteville, has returned to the city.

# IT IS A FIGHT FOR THE PEOPLE

### Democrats of North Carolina Should Contribute to Bryan-Kern Fund

It is a real fight in the Presidential election this year, and the Democrats have the brightest possible prospects of success.

Did you read the returns from the Maine election, and notice how the Democrats advanced in that rock-ribbed State. The election there spells victory for William J. Bryan.

But the Democratic forces must be thoroughly organized so as to win a victory, and it takes money to organize, to send out literature, and to meet all the great expenses of a campaign.

Democrats, and all who stand for the rule of the people are urged to contribute to the Bryan-Kern campaign fund which is being raised in North Carolina, as in other States. **The News and Observer** list is growing, but not as rapidly as it should. Democrats in every section of the State should subscribe as they are able. The people are relied upon to furnish the needed money, and with enough of this to care for all legitimate expenses the Democracy has a fine chance to win.

Send in your money at once. It is needed right now.

**Wilson Makes a Stort.**

Wilson got into the procession of contributing towns yesterday and as the result of one day's work by Mr. R. B. Evans, of that city, there was $26.50 added to the Bryan-Kern campaign fund. The money came in last night and with it this letter:

To the Editor: Inclosed find checks and cash for $26.50, which has been placed in my hands to be added to the Bryan-Kern fund now being raised by the **News and Observer.** This is Wilson's first instalment, but rest assured there will be more. All contributions left with me will be properly creditd in the **News and Observer.** Respectfully,

R. B. EVANS.

Wilson, N. C., Sept. 14.

The Wilson list is published at the end of the list published this morning and it is entered with plasure, for it is an earnest that more is to come from Wilson. The work of Mr. Evans has begun well, and it shows what a man can do in any community if he goes at it. Other men in other communities should get to work at once, and rush up the Bryan-Kern fund.

**The Subscriptions to Date.**

There was added to the **News and Observer** fund yesterday a total of $34.50, of this $26.50 coming from Wilson, and this carries the total up to $1,554.35, as follows:

(Continued on Page Nine)

# A RADICAL'S VIEW OF IT

### Chicago Republican Lawyer Sees Victory for Bryan

**Hon. Q. J. Chott Addresses Newly Organized Democratic Club at Lenoir and Says Illinois and Indiana Are Going for Bryan and Chances in Ohio Are Even.**

(Special to News and Observer.)
Lenoir, N. C., Sept. 15.—Last night the Democrats of Lenoir met in the court house and organized an enthusiastic Democratic club. Mr. V. D. Guire was elected president and Mr. J. K. Moore, secretary. There were nearly a hundred names enrolled and what has been enrolled today will put the entire enrollment beyond that figure. In the near future the members of this club will organize clubs at every voting precinct in the county. Hon. W. A. Self, of Hickory, addressed the meeting and discussed the issues of the campaign in a masterly way.

One of the features however of the meeting was an address by Hon. Q. J. Chott, a lawyer from Chicago, and a Republican, when it comes to politics, but is an ardent Bryan supporter. He said he had been studying the situation in his own State, Indiana and Ohio, and he gave out the information that it was his honest conviction Bryan would carry Illinois and Indiana and at present he had an even chance with his opponent in Ohio. He also stated that Hon. Adlai E. Stevenson would be Illinois's next Governor without a doubt. Mr. Chott said that the States of the Middle West were nearly all for the Nebraskan.

### MT. AIRY MAN WANTED

**W. H. Phillips Given 16 Months in Prison and a Fine of $200 by Virginia Federal Court.**

(Special to News and Observer.)
Lynchburg, Va., Sept. 15.—W. H. Phillips, of Mount Airy, N. C., today pleaded guilty in the Federal court here of violating the revenue laws in Patrick county, this State, and was sentenced to sixteen months in prison and a fine of $200. This ends one of the most important fraud cases tried in the courts here for years.

# THE SITUATION IS CHANGED NOW

### No More Talk of a Taft Walk-Over

### REPUBLICANS ALARMED

**At the Beginning of the Campaign Republican Leaders Chuckled in Speaking of the Contest, but Not so Now—They are Possessed of a Feeling of General Alarm and Special Fears Are Expressed for the Safety of Boss Joe Cannon.**

By THOMAS J. PENCE.

Chicago, Ill., Sept. 15.—At the beginning of the campaign, Republican leaders chuckled to themselves in speaking of the present political contest. They professed to believe that the Democrats did not have a chance on earth and that the holding of the election would be a mere formality. The only question with these self-appointed wise people was the size of the Taft majority. Republican papers and especially those influenced by trust interests, gave frequent expression to this character of boasting. Some of the metropolitan papers in their enthusiasm quoted fictitious betting odds of ten to one in favor of the Republican nominee.

This situation is changed now. No more is heard from those Republican leaders about a walk-over victory. Publicly these Republicans assert that they have a hard fight ahead of them, but in private conversation they admit the situation is anything but encouraging. As a matter of fact, well informed people who have travelled about the country admit the trend of sentiment especially in the middle and far western States, is decidedly with Mr. Bryan. With reference to the States east of the Alleghanies, Democrats are more confident than they have been since 1892. Whta gains will be made by the Democracy is nothing more than guess work, but it is a well known fact that people who have travelled from ocean to ocean and observed political conditions, are of the opinion that Mr Bryan will receive a much larger vote in the States west of the alleghanies than he did in his two previous contests. It is freely admitted that the popularity of the nominees and the Denver platform with the well known disorganization in the Republican States, has made debatable fully a score of States that have been regarded as Republican. The Democrats have followed up this advantage and it is a matter of knowledge that Chairman Mack has extended his fight into States which were regarded several months ago as almost helplessly Republican.

The feeling of alarm has taken possession of these heretofore sanguine Republicans in a number of States, as well as in a national way. Here in Illinois it is openly proclaimed through Republican papers that Uncle Joe Cannon, the legislative boss of the administration, may go down to defeat. There is open revolt against the Speaker in his own district. The fight on Cannonism, which is one of the issues, featured in the Democratic Text Book, seems to have made a deep impression on the voters throughout the country. The result is the signal of distress is coming from some of Uncle Joe's Congressional associates who have been conspicuous in their efforts to stifle legislation at Washington. The cry of alarm started when Representative Babcock, of Wisconsin, chairman of the House Judiciary Committee, was turned down by his constituents. Babcock was Uncle Joe's right hand power in checking the claims of labor in Congress. This revolt against Cannonism, which is one of the acute issues of the campaign, has spread from one end of the country to the other. This evident drift of sentiment among the voters towards Bryan and Democracy has very naturally made its first impression in Congressional districts.

Republican papers here have already begun to put out stories about the jeopardy in which the Boss of the House is placed, and of the danger to other Republican leaders who help Uncle Joe kill meritorious legislation at Washington. It is declared that these stories reflect the genuine alarm that exists among Republican leaders, and that their circulation in the press at this time is for the purpose of communicating this feeling of fear to those special interests which the Speaker and his Republican followers in Congress have favored at the expense of the people. The story told here is that the Republicans hope by this method to "shake down" the beneficiaries of the tariff and monopolistic and trust concerns for enormous campaign contributions, which will be used in those States where the people are evidencing a disposition to take a stand against Cannonism and other evils of Republicanism. That is the method the Republican party has employed in the past to compel insurance, railroad and other corporations to stand and deliver the peoples' money.

The speeches that Speaker Cannon is delivering indicate that he is in a panicky condition. At the Republican State convention in Illinois last week, Uncle Joe was very abusive of Mr. Bryan, Mr. Gompers and all those who are working for the Democratic cause. His violence of speech and action would indicate that he has lost his head. Here is what the Tribune, the leading Republican paper here, said of his apearance before the Illinois Republican State convention:

"Mr. Cannon denied Gompers represented the sentiments of the laboring men in his attacks on the Republican ticket. The Speaker took up half the platform in the delivery of his speech and several times seemed to be on the point of launching himself out over the heads of the delegates after the fashion of an aeroplane.

"He poured half a pitcher of ice

(Continued on Page Three.)

# RE-NOMINATED ON FIRST BALLOT

### Governor Hughes Choice New York Republicans

### CONVENTION ADJOURNS

**Hughes Received 827 Votes on First Ballot; Wadsworth, 151; Stewart, 31—Wm. Barnes, Jr., Moves to Make Nomination Unanimous and the Motion Prevails—Hughes Sends a Message.**

(By the Associated Press.)
Saratoga, N. Y., Sept. 15.—Governor Hughes was re-nominated on the first ballot, receiving 827 votes; Wadsworth received 151, and Stewart 31. Wm. Barnes, Jr., of Albany, moved to make the nomination unanimous, which was done. The convention adjourned sine die at 5:30 p. m.

Rochester, N. Y., Sept. 15.—"I am deeply sensible of the honor conferred upon me. I wish t oexpress my appreciation of the confidence reposed in me by the Republican party."

Thus did Governor Hughes make his first public statement after his notification of re-nomination for Governor of New York State tonight. Beyond that the Governor would say nothing, either as to his running mates on the Republican ticket or his policies for the second term, should he be elected. Governor Hughes passed through Rochester early tonight bound from Warsaw to Albany.

# STRONG TEAM IN CHARLOTTE

### Bailey and Tillett Deliver Masterful Addresses for Democracy

**Democratic Presidential Elector at Large and Mr. C. W. Tillett Addresses an Enthusiastic Audience in the Queen City, Confining Themselves Largely to National Issues.**

(Special to News and Observer.)
Charlotte, N. C., Sept. 15.—Hon. Joseph William Bailey, of Raleigh, and Mr. C. W. Tillett, of Charlotte, addressed an enthusiastic audience here tonight on the issues of the campaign. Reviewing Republican policies and applauding the Democratic platform and the position of William J. Bryan, the speakers confined themselves largely to national issues, and their efforts were received with applause.

**Mr. Tillett Speaks.**

Mr. Tillett, the first speaker, said: "The returns from Maine the other day were like the rumblings of an earthquake, and if this thing keeps up we have got the Republican party on the run, and their defeat at election time will be worse than that of the ersians at Marathon, or the Yankees at Bull Run." Mr. Tillett emphasized the importance of the bank guaranty deposit as one of the best planks put forward by the Democratic party, and he discussed this issue from every standpoint in a most masterly manner, in which Mr. Cox's resolution to let the educational interests of the State remain out of politics, was received by the Republican politicians at the recent State Republican convention, and to the manner in which Mr. Cox cleared out at the suggestion of the politicians.

**Mr. Bailey's Address.**

Mr. Bailey, who has Many friends here, was greeted with a ringing welcome when he arose to speak. His remarks showed a degree of study and an acquaintance with the national issues that impressed the audience. He said, among other things:

**"For twenty-five years the Republican party has kept itself in power by claiming that it was responsible for the industrial prosperity which the bounty of God and the industry of the people have brought about. This is a most shocking abrogation of the powers of the Almighty. As this prosperity has for a time departed, we may hope that the deceived millions in the North and West are arriving at the conclusion that government derives its power and strength from those fundamental principles upon which it was founded."**

The great practical questions, according to the speaker, are, first, the control of the currency; second, the fixing of prices; third, the burden of taxation; fourth, the equal benefits of government in commerce. These Mr. Bailey discussed at length and ably. "Shortly we shall see the South lead Democracy into the seats of the migthy," was the closing optimistic prediction of the speaker.

### GRAND LODGE OF ODD FELLOWS

**Father and Son, Eminent in the Order, Go to the Sovereign Grand Lodge at Denver.**

Messrs. Charles M. Busbee, Past Grand Sire, and Perrin Busbee, Grand Representative, left yesterday for Denver to attend the 84th annual session of the Sovereign Grand Lodge, Independent Order of Odd Fellows. Others going are Grand Representatives T. M. Stephens, of Durham; F. C. Dunn, of Kinston, and L. W. Jeanneret, of Asheville. There are also going Dr. L. B. McBrayer, of Asheville, and W. H. Overton, of Durham. The order is now in a very flourishing condition, numbering over a million and a half of members, and is the largest fraternal organization now in existence.

# OPINION WRITTEN BY JUDGE BOYD

### Circuit Court of Appeals Sustains Pritchard

### IN DISPENSARY CASE

**Opinion of the Court is Against the South Carolina Dispensary Commission in the Famous Case of Fleischman Company and Others—Decision Holds the Proceeding Not a Suit Against the State.**

(By the Associated Press.)
Richmond, Va., Sept. 15.—Deciding against the South Carolina Dispensary Commission, the United States Circuit Court of Appeals handed down an opinion sustaining the opinion of Judge J. C. Pritchard, of the Circuit Court for the district of South Carolina, in the famous Fleischman Company and others, against the South Carolina Dispensary Commission. Today's decision was written by Judge James E. Boyd, of Greensboro, N. C., and concurred in by his associates, Judge Edmund Waddill and Chief Justice Fuller of the Supreme Court of the United States.

The decision is a voluminous one and holds that the proceeding is not one against the State and that the complainant is not forbidden to maintain his action by the eleventh amendment to the Federal Constitution. It holds that the framers of that amendment to the Constitution never conceived that a Southern State would engage in the liquor business and become a trader by buying and selling an article of common traffic and common with the citizens of the country. The court questioned, therefore, whether the State was exercising a governmental prerogative or performing a function necessarily or properly incident to its autonomy as a State. It declared that the fund in controversy, which the complainant claims it should be paid from, being in the hands of the Commission charged with the duty of abolishing the dispensary, the State has no interest in so much thereof as necessary to pay the just debts. The members of the Commission, according to the court, hold the funds in trust for payment of all just debts of the State dispensary and creditors of the dispensary "have a property in the funds in the hands of the Commission to the extent that the debts are shown to be just and a judicial determination of the true amount of such debts can in no way affect the rights and interests of the State."

The suit, said the decision, is not against the State, nor is the State an indispensible party.

"Treating the fund in the hands of appellants as a trust fund," it adds, "and the duties of the trustees being clearly defined, the trustor is not even a necessary party to a suit brought to compel the trustees to discharge their duties. Their position appears to be that the agents, representatives of the debtor, should constitute a tribunal absolute in its character to arbitrarily pass upon what, if anything, is due an alleged creditor, and if a claim be adjudged invalid, without further opportunity for redress on the part of the creditor. To uphold such a contention would be to deprive such a creditor of his property without due process of law."

**On the Eleventh Amendment.**

The court says, regarding the eleventh amendment:

"Undoubtedly the eleventh amendment was intended to prevent the Federal court in suits prosecuted by citizens of another State, or citizens or subjects of a foreign State from interfering with a State in preservation of its autonomy in maintaining its own system of self-government, so long as such system is in harmony with the Constitution of the United States. To this end, therefore, the funds of the State in its treasury held by its officers or agents for use in the administration of the governmental affairs of the State are not to be affected by the process of the Federal court nor can such court entertain jurisdiction of an action which has for its purpose the invasion of rights of the State to manage and control its internal affairs or of an action which will obstruct the State authority or impair the State instrumentalities in the discharge of legitimate functions in the maintenance of the State's integrity."

The court held that while the Commissioners were empowered to investigate the transactions, they were not empowered to determine any issue of fact, enter any judgment, etc.

Referring to the opinion of the Supreme Court of South Carolina that a suit against the Dispensary Commission was a suit against the State, today's decision refuses to adopt that construction.

Counsel for the Dispensary Board asked for and were granted a stay of mandate of forty days in which to prepare an appeal.

### A MIXED COURT

**White Men, Negro Men and a Chinaman in the Mayor's Court—The Jail Filling Up Again.**

(Special to News and Observer.)
Wilson, N. C., Sept. 15.—Notwithstanding the fact that Judge Allen emptied the Wilson jail last week of thirty-one prisoners, the prospects for full cages by the time court convenes again, is promising—as two were sent over this morning from Mayor Moore's court—one for larceny and one for assault with a pistol. Besides these there were eight others, black and white, and a Chinaman, for various offenses. The aggregate fines this morning amounted to $26.20.