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Supreme Court Decision as to Near Beer

RECESS TILL JANUARY 8TH

The Supreme Court Yesterday Handed Down the Opinions in Thirty Cases—Decide Cities Have the Right to Issue Bonds for Necessary Improvements—Digest of Opinions.

The Supreme Court of North Carolina took a recess yesterday until January 8th. The regular spring term for the Supreme Court does not begin until the first Monday in February, but owing to the exceedingly heavy docket this fall, the court has found it necessary to return in January to finish all the fall work. This is the first time in several years that this has proven necessary.

Yesterday morning the court handed down the opinions in thirty cases. Among the cases handed down is that of Parker v. Griffith, which is another of the "near beer" cases. The Supreme Court in this case decides that a sheriff has not the right to refuse to issue a near beer license. Parker tendered the sheriff of Union county \$40 as payment for the State and county tax, and asked for a near beer license. The sheriff refused to issue him one, and he brought suit to compel the issuance of the license. The Supreme Court, through Judge Brown, who writes the opinion, states that the legislature of 1909, having legalized the sale of near beer and having placed a license tax of \$20 on the sale and having authorized the county to levy the same amount, a county cannot prohibit the sale of near beer. Being legalized as a business by the State, no county, city or town can prohibit the sale of near beer. A county may levy the license tax of \$20 and a city or town under the law as laid down in State v. Dannerberg at this term, may impose regulations and may place such license tax on the sale as will regulate, but they cannot prohibit.

Verdict that defendant obtained property by representing himself as another person. Upon the special verdict, the court adjudged defendant not guilty. Held, that special verdict not stating the intent of the defendant, and the court being confined solely to the facts found in the special verdict, no judgment is warranted by the verdict, and a new trial must be had.

State v. Green, Franklin County. Error. Hoke, J.

1. Criminal prosecution for failure to work the roads. Held, that the warrant in the case, being fatally defective in failing to allege that defendant was assigned to work the road described and failing to negative payment of the one dollar allowed by law in lieu of service, the motion for arrest of judgment must be allowed, affirming State v. Lunsford, 150 N. C., 362.

Dawson v. Ennett, Craven County. Affirmed. Hoke, J.

1. Plaintiff contracted to convey with good title a tract of land to defendant and defendant refusing to pay purchase price, alleging that title was defective, whereupon this suit was instituted for purchase price. Defendant demurred to the complaint and the demurrer was allowed. The land in controversy was owned by Marietta O'Leary with the condition that if she died without issue, the land was to go to a third party. Marietta O'Leary has no living child. The plaintiff had purchased her interest in said land. Held, that the plaintiff not being able to make a title in fee, the demurrer was properly sustained.

Parker v. Griffith, Union County. Reversed. Brown, J.

1. Plaintiff tendered sheriff of Union county \$40 and demanded a near beer license, which was refused by the sheriff. Plaintiff sued out a mandamus to compel the sheriff to issue the license. The trial judge dismissed the plaintiff's writ on the ground that the license, chapter 438, legalized the sale of near beer and authorized the counties to levy a tax of \$20 for the issuing of the license in addition to the State tax of \$20. The county commissioners of Union levied such tax in accordance with the Act of the Legislature. The Legislature having legalized and licensed the sale of near beer, no county, city or town may prohibit its sale. Counties may levy a tax of \$20 and incorporated cities and towns may regulate it by imposing reasonable license taxes but neither can prohibit, affirming State v. Dannerberg, at this term.

Yonns v. Comms. Union County. Affirmed. Manning, J.

1. Civil action on motion of plaintiffs to enjoin the defendants from a special tax for school purposes voted under Revised section 4115 in special school district of Union county. Plaintiffs contend that no polling place was named in order calling election and that registration books were not kept open during time required by law. It is held that a killing with a deadly weapon raises two presumptions, 1. that killing was unlawful, and 2. that it was done with malice. If the defendant rebuts only the first presumption, the killing was manslaughter in the eyes of the jury in this instance.

State v. Fowler, Polk County. No Error. Brown, J.

1. Indictment for murder in second degree and conviction for manslaughter. Defendant contends that he cannot be convicted for manslaughter. Held, that under State v. Quick, 150 N. C. 320, if error in convicting defendant of manslaughter when charged with murder, it was error favorable to the defendant and of which he cannot complain.

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CASCARET—The Best—week's treat. Cures all ailments. Biggest seller in the world. Millions have used it.

SPECIAL FURNITURE VALUES DELIGHTFUL GIFTS

They are growing fewer and fewer every day. Lots of folks have taken advantage of this great sale and have purchased their Christmas gifts from our stock. Be "penny wise" and do likewise. Some handsome articles are in stock yet, and if you hurry you can give the very thing that's needed most, for while we haven't many articles of a kind we have many different articles represented by a piece or two.

Get in on the big discount sale.

Capital Furniture Company
 RALEIGH, N. C.
 203-206 Fayetteville St. 8-10 E. Hargett St.

Not alleged that anyone was prevented from voting by these facts. The lower court found that all persons had an ample and full notice of election, polling place an opportunity to vote and that a majority of the voters in the district including those who did not vote, voted for the special tax. Held, that the errors complained of are not sufficient to vitiate the result of the election as all voters were aware of the voting place and no one failed to register or asked to register the day of the election.

Cates v. Telegraph Co. Alamance County. New Trial. Walker, J.

1. Action for damages for the negligent delay of a telegram. Message received by the operator at Haw River after office hours and forwarded by him to Richmond as usual for all messages in this way, but it came to attention of High Point next morning the message was forwarded from Richmond to High Point. Held, that telegraph companies have the right to establish reasonable hours of office and an operator receiving message after office hours, he must forward it to proper office, but if office is closed, and the message is forwarded at once when it opens in the morning, there is no liability for the failure of the telegraph company to forward message sooner, affirming Carter v. Telegraph Company, 141 N. C. 274.

Bradshaw v. High Point. Guilford County. Affirmed. Clark, C. J.

1. Action to enjoin the City of High Point from issuing bonds to the amount of \$30,000, the proceeds of which to pay a debt contracted for a necessary expense of the city. The city contracted with a company for the extension and improvement of their sewerage and water systems. Not having sufficient funds or current revenues to pay this indebtedness, the city was preparing to issue and sell bonds to pay indebtedness. Held, this contract was for a public necessity and therefore a valid indebtedness and a popular vote was not necessary unless the charter or some statute required it.

Wilson Court Adjourns.

Twenty-five Criminal Cases Disposed of in Two Days—Judge Cook Left for His Home This Morning.

(Special to News and Observer.)
 Wilson, N. C., Dec. 23.—There were twenty criminal cases on the supreme court docket Monday morning when Judge M. Cook arrived in the city, and seven more were sent over from the mayor's court—a bunch of gamblers. Nothing was tried but the jail cases; but there are on the criminal docket many more. From the time Judge Cook arrived in the city until it adjourned Tuesday afternoon two juries were kept as busy as bees, and the rapidity with which the work was done showed that every court officer was on his job.

Horse Dashes Into Show Window.

(Special to News and Observer.)
 Tarboro, Dec. 23.—A good deal of excitement was created here in the vicinity of the furniture emporium of F. M. & S. Q. Carllie, when the dray horse of J. B. Cummings & Son, dashed into one of the large plate glass windows of the furniture firm. Mr. Frank Ray, who passed the dray on the street, touched the Messrs. Cummings' horse upon the back, which frightened the animal so that it reared and plunged. The swingle-tree was broken, and Mr. R. B. Cummings and the colored drayman, who were in the wagon, leaped to the pavement, after doing all they could to prevent the beast from doing any

AT DEATH'S DOOR.

Policeman J. T. Corbett, of Wilson. Critically Ill in Baltimore Hospital—Wife Leaves for His Bedside.

(Special to News and Observer.)
 Wilson, N. C., Dec. 23.—A few days ago Officer J. T. Corbett received a lick on the head last August while returning to Wilson on an excursion train, by an unknown negro—was taken to Johns Hopkins Hospital in Baltimore for treatment. He was operated on and a clot of blood was removed from over one of his eyes. Tuesday night a telegram was received by Mrs. Corbett stating that pneumonia had developed and that the chances for her husband's recovery are slight. Mrs. Corbett left for the bedside of her loved one.

Death of Mrs. Thaxton.

(Special to News and Observer.)
 Spencer, N. C., Dec. 23.—Mrs. Mollie F. Thaxton, one of Spencer's best known and highly esteemed women, died at her home here last night following a severe illness from typhoid fever, lasting several weeks. She was desperately ill for the past week and no hope was entertained for her recovery. She was about forty-five years old and is survived by two daughters, three sons, four sisters and two brothers. She was the wife of the late B. W. Thaxton, a well known Southern Railway conductor who died three years ago. The interment takes place tomorrow in Richmond, the old home of the family, to which place the remains were carried tonight.

Death of Mr. William Harrison.

(Special to News and Observer.)
 Snow Hill, Dec. 23.—Mr. William H. Harrison died at the home of his daughter, Mrs. J. E. Bunn, after a lingering illness, which was pronounced pellagra. He was 69 years of age and was a consistent Christian. During the civil war he was a member of the North Carolina 67th regiment.

Stole Five Dollar Bills.

(Special to News and Observer.)
 Siler City, Dec. 23.—A bold robbery was committed here at the depot. While the agent was meeting a train a thief slipped into the express office and grabbed five one dollar bills from the money drawer. The guilty party was suspected and made to disgorge.

No Trace of Eloping Couple.

(Special to News and Observer.)
 New Bern, Dec. 23.—Though great effort has been made to locate Alf Bragg and the wife of Charles Hoover, who eloped with him, so far nothing has been heard of the couple.

The beautiful grounds of the Greensboro Keeley Institute are much admired by visitors to that City. When in Greensboro don't fail to go to the Institute, where visitors are always welcome.

THE COFFEE WITH TWO MILLION FRIENDS
 (Two Million Cups Drunk Daily.)
LUZIANNE COFFEE
 AMERICA'S FOREMOST BRAND.
 Not a near-coffee, nor a make-believe coffee, but a smooth, rich, strong, high-grade, Real coffee for red-blooded people who demand the Best. And its price is so moderate.

Ask Your Grocer. **THE REILY-TAYLOR COMPANY,**
 NEW ORLEANS, LA.

WILSON NEEDS UNION DEPOT.

Passengers Chasing From One Depot to the Other Frequently Get Left.

(Special to News and Observer.)
 Wilson, N. C., Dec. 23.—That Wilson stands sorely in need of a union passenger depot is demonstrated nearly every day in the year—for no other purpose than to keep people from chasing themselves to death. The Norfolk and Southern and the Atlantic Coast Line depots are separated by more than two blocks; the trains here make close connections and if one or the other is a few minutes late passengers frequently get left when attempting to get transferred from one depot to the other.

Tuesday two passengers came in on the Norfolk and Southern, and reached the A. C. L. depot just in time to see the train pull out. Another passenger came in on the Atlantic Coast Line and in trying to make connection with the Norfolk and Southern reached the depot platform just in time to make an attempt to get aboard, unsafe for him. He had to remain over in Wilson until the next train for Raleigh, arriving in the capital city so late that it was impossible to transact his business and return the same day.

Such happenings are of frequent occurrence and if the city of Wilson depots these annoyances would cease. There are many other reasons why this state of affairs should not continue. As stated, if the hackmen happen to be out of place, the inconvenience to passengers—especially the ladies and those who may be sick—is of importance enough to attract the attention of the Chamber of Commerce and open their eyes to the importance of a union depot for the city of Wilson.

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Look into our BUGGY and CARRIAGE proposition. Hand made to order, open and top Buggies from \$35.00 to \$50.00 and up to \$100.00 with ball bearing axle and large cushion rubber tire.

Good Discount to dealers and stable men. Yours truly,
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TWO FAST VESTIBULE TRAINS WITH DINING CAR SERVICE. Through Pullman Sleepers to Louisville, Cincinnati, Chicago, and St. Louis.

Lv. Richmond	2:00 p. m.	6:45 p. m.	11:00 p. m.
Lv. Charlottesville	5:25 p. m.	9:25 p. m.	
Lv. Lynchburg	4:00 p. m.		
Ar. Louisville	11:00 a. m.	7:30 p. m.	
Ar. Cincinnati	8:00 a. m.	10:30 a. m.	4:00 p. m.
Ar. Chicago	5:25 p. m.	6:00 p. m.	7:30 a. m.
Ar. St. Louis	5:41 p. m.	6:10 p. m.	7:17 a. m.

Only one night out between Raleigh and Cincinnati, Chicago and St. Louis. Direct Connections for All Points West and Northwest. QUICKEST AND BEST ROUTE. The Line to the Celebrated Resorts of Virginia.

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MR. HENRY CARVER IS WITH US AND WILL BE GLAD TO HAVE HIS FRIENDS CALL UPON HIM.

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FINAL NOTICE

TO

TAX-PAYERS

All persons who have not paid their taxes for the year 1909 are hereby notified to come and settle their taxes, and those who do not settle by the

25th OF DECEMBER, 1909

will have to pay the costs, and levies will be issued against their property. This is positively the LAST NOTICE that I shall send out. The taxes should have been paid not later than the first day of November, 1909, but I have taken the responsibility to extend the time, so as to be as lenient as I can. I now authorize and instruct all my deputies, both in Raleigh and outside, to LEVY upon all property and garnish the polls on which the TAXES HAVE NOT BEEN PAID, ON AND AFTER DECEMBER 31, 1909, and those who are caught by the levies and have the costs to pay will have no one to blame but themselves.

I am compelled to collect the taxes, and I do hope that all will come AND SETTLE, so as to avoid the necessity of my collecting their taxes by distress.

JOSEPH H. SEARS,
 Sheriff of Wake County.
 December 11, 1909.