It Weighed Heavily But Didn't Count

WESTFELDTS WIN FAMOUS "COPPER MINE CASE" BEFORE CHIEF JUSTICE M.W. FULLER

Judge Pritchard Overruled in the Court of Appeals at Richmond.

STATE COURT

Suit is Ordered Dismissed on the Ground of Jurisdiction.

Completely overturning the decree of Judge Pritchard by setting aside his judgment in favor of the North Carolina Mining company and vindicating the jurisdiction of the North Vast Throng of Women Beg Carolina state courts by dismissing the suit in his court, the decision and opinion rendered yesterday n Richmond by Chlef Justice Melville W. Fuller of the United States supreme court, sitting on the court of appeals, is a decisive victory for the Westfeldt heirs in the noted "copper mine case," the most noted lawsuit pending in this state.

The decision of the eminent chief justice make a nullity of the long fought and elaborate contest in the same mines two weeks ago to a day fifty miners were killed by a similar explosion.

In the culet of the early morning Hazel creek, in Swain county, with its thousands of pages of testimony and printed records costing thousands of dollars, because it holds that Judge Pritchard had no authority even to entertain the suit which it directs the decision is to restore to the superior court of Haywood county the right to proceed with its case involvsame property between the same parties which was suspended by the injunction issued by Judge Pritchard preventing the Westfeldts Judge from proceeding in that court which had first taken jurisdiction of the

matter in controversy. The steps indicated by legal proce dure for the mining company, represented by W. S. Adams, are either to take the case to the supreme court of the United States by certiorari or otherwise in the hope that that tri-bunal will reverse the decision handed down by Justice Fuller and Judges Morris and Brawley in the court of appeals, or to pay the costs out safely as did also Robert Smith in the federal court and depend on a miner. With the foreman was a fighting the case before a jury in the miner named Holliday, and he too state court. It was learned yester-day that Judge J. H. Merrimon and ganized on the moment, rushed into Judge Chas. A. Moore, of this city. of counsel for the Mining company, were in Richmond at the time the decision was rendered and that they intended to apply for a write of certiorist to the highest court. This will

A train was rushed from this city tioran to the highest court. This will A train was rushed from this city to the scene of the disaster, some 25

this is but a minor detail in the sum a new entry and it is said that all total. The stenographer's bill for the these men were losttaking of the evidence on behalf of ands. The Westfeldts have paid these and in the event the court of appeals' decision stands the copper that it was safe.

No Bodies Recovered. property could be sold to reimburse them, it is said.

A very unusual degree of local interest attaches to the decision of yesterest attaches to the decision of yesterday aside from that created by the importance of the case and its unusual be reached before morning. incidents because of the acquaintance (who was Miss Louise Westfeldt) of the men alive. this city are largely interested in the result as are Charles Fleetwood Hunt Mrs. Henry Grinnell, of Washington, force of the explosion. D. C., and Overton W. Price, a high It is reasonably certain that all of official of the U. S. forestry bureau, the bodies will never be recovered. (Continued on page five.)

LIVES OF OVER **100 MINERS ARE** SNUFFED OUT

Two Weeks Ago in Same Mine Fifty Persons Were Killed.

RESCUERS DRIVEN BACK BY FUMES

to Aid in Saving Loved

Ones.

BLUEFIELD, W. Va., Jan. 12 .-An explosion today in the mines of the Lick Branch colliery snuffed out hundred lives. more than one these same mines two weeks ago to

In the quiet of the early morning there came like the sound of thunder a mighty rumbling from the bowels of the earth, which reverberated among the hills and told of dire calamity. Piles of earth and that he now dismisses. The effect of and the mountain were torn by the force of the concussion and at the mine mouth the earth and debris set free beiched forth in a cloud of soo and dust and heavy beams, even a massive motor used to haul the coal cars being hurled from the depths.

No sooner had the explosion died away than a vast throng of women and children, their feet sped by anxiety and dread, rushed to the mine mouth and implored there to allow them to aid in the effort to save som of their loved ones who might still be alive within the mine.

Crawle to Safety The mine foreman, Bowers, who from his feet, but managed to craw the daws of the smoking mine and tried to rescue him. They were driv

of appeals and it cannot be said now miles away, carrying brattleing and that the case can be taken to the su-preme court.

other material to be used in the work of exploration and rescue. There were supposed to be sixty or eighty The costs in the federal court are men in the section of the mine affectenormous and no one will hazard ed. The debris from the explosion of more than a guess at the total. It is known that the printing of the tesimony and papers in the case alone in this work. Nineteen contract minthe Westfeldts over \$4,000 and ers with their crews were at work in

The explosion was in a different Westfeldts amounted to about part of the mine from that of two \$3,000, and in addition there are costs weeks ago. Since the catastrophe of clerks, examiners and other offic- the mine has been inspected by govials which will run into the thous- ernment officials and by the most experienced miners in the region and all, it is said, expressed the opinion

None of the bodies have been re-

covered.

and standing of the members of the of six bodies, but was forced back. Westfeldt family here. As is known The latest estimate of the number of they are the owners of the handsome men entombed is more than one hun-Rugby Grange estate near Arden, one dred. That all of them are dead there of the prettiest places in the moun- can be no doubt. The fire in the mine there each summer members and the deadly gas, to say nothing of of the family come from New Or- the awful force of the explosion, preleans. Dr. and Mrs. G. S. Tennent cludes any chance of rescuing any of

Westfeldt, Mrs. Tennents brother, the mountain to the other. Debris who now resides in Los Angeles, her was blown from both entries, which sisters. Miss Jennie Westfeltd and gives some idea of the tremendous

(Continued on page two.)

CHARGES THAT TESTIMONY AGAINST T. J. HAINS WAS MANUFACTURED assembly, and massed behind and to distant earthquakes, but the record in the sides of them were folks from not sufficient to give an estimate of

(By Associated Press.)

rs of the Bayside Yacht club was manufactured and that witnesses summing up the defense in the trial hearsed." of Thornton Jenkins Hains Mr. Mc-

The Counsel spent over nive nours in rectal. Inside Crane informed Mr. McIntyre that he must conclude his and pointing out discrepancies which, the lawyer asserted, showed that much of the testimony of the state much of the testimony of the state had been rehearsed in an instruction in the case must go to the jury on had been rehearsed in an instruction in the case must go to the jury on had been rehearsed in an instruction in the case must go to the jury on the state of the continued on page size).

school. Mr. McIntyre declared that was manufactured and that witnesses Hains, was "manifestiy false," and cause their evidence was not suffic- that she had been taken from the witiently rehearsed were made by At- ness stand when it was seen that her torney John F. McIntyre today in story had not been sufficiently re-

During the defense's closing Mr. Intyre had not finished his closing McIntyre and Prosecutor Darris had address when adjournment was taken verbal clashes which occasionally the various staff departments and punctuated Mr. McIntyre's dramatic abilities of the Counsel spent over five hours in



KITCHIN IS NOW GOVERNOR OF N. CAROLINA

N.C. REPUBLICAN

MACHINE

Imposing Ceremonies Marked Inauguration of Chief Executive at Raleigh.

HE IS IN FAVOR OF PRIMARY LAW

The Inaugural Address is a railway, was this afternoon found gull-Lengthy One and Covers Much Ground.

(Special to The Citizen.)

haps in the history of North Carolina were inauguration day ceremonies ed it very surpassed in point of brilliancy, asked if he crowds and weather. The day has his brother been practically perfect, clear with lively said that perhaps he could have just enough crispness in the air to put oxygen in the blood. The streets It is said that a part of the mine in and buildings had their glad togs out One rescue party came within sight special trains and the regular ones were all crowded this morning and last night with citizens and soldiers bound Raleigh-ward. The city has been full of the uniformed citizen soldiers all the day except during the parade, when they were all on duty, and a lively fot they have been, but earthquakes have been recorded by the well behaved withal. The inauguration proper took place survey mar a tie observatory at the

on a great grandstand built for the tenham, Mar land, during the past 24 purpose at the east front of the cap- hours. itol. The ceremonies began at 1 The fit o'clock. The oath of office was administered by Chief Justice Walter and lasted Clark, of the North Carolina supreme maximum court, and immediately thereafter second ear Governor Kitchin began his inaugur- the morning al address. He was in excellent voice at about at about at 7:22.20 at 7:22.20 enthusiastic and prolonged applause. 12, and end-The throng was tremendous and in- imum occurr spiring. Immediately in front of the stand sat the members of the general small, and assembly, and massed behind and to distant earth all over the state. The capitol square the distance. and thereabouts was simply a mass of looming large over the assembiage And along New Bern avenue almost FLUSHING, N. Y., Jan. 12.— much of the testimony of Mrs. Wil- as far as the eye could reach stood Charges that the testimony of the liam E. Annia, whose husband was the troops of the national guard of shot and killed by Captain Peter C. the state, cadets, civic organizations, school children, fire companies and

Holds Review. As soon as the address was con cluded and those near enough had congratulated the new governor, he proceeded at once to the reviewing stand, accompanied by the chiefs of states officers, and the entire parade,

RAILWAY PRESIDENT ATTY. GENERAL

Charged With Conspiracy and Misdemeanor in Attempting to Bribe.

PITTSBURG, PA., Jan. 12.-Charles H. Cameron president of the Tube City railway company, who has been on trial for several days charged with conspiracy and misdemeanor in attempting to bribe Former City Counllman William A. Martin, in connec tion with the passage of an ordinance granting a franchise to the Tube City

ty as infficted The case same to an abrupt today and the jury was out but fifteen minutes. Attorneys for Cameron gave otice of an appeal for a new trial and the accused was held in \$20,000 bail an increase of \$10,000 in which he

RALEIGH, N. C., Jan. 12.-It is was originally held, Former Comeliman W. A. Martin Governor Kitchin now. Never, per- said he was honest in selling his honor to Camerson and that he considerould not have had to distribute the money among some of ouncilmen, Martin nafooled them Cameron footed him.

SAYS SEISMOGRAPH

WASHINGTON, Jan. 12 -Three seismograph at the coast and geodetic

ake began at 5 22 30 on I January 12, and ended the morning of January at about 7:52. The max-

The record disturbances were ver re no doubt caused by nunkes, but the record is



WASHINGTON, an. 12,-Forecast

IS FOUND GUILTY ISSUES REPLY TO MR. TILLMAN

HOW WOULDN'T

YOUR GIZZARD ?

But Takes Up Only Part of South Carolina Senator's

Speech.

DENIES SENATOR TOLD ANYTHING

Was Ignorant of Whole Affair Till He Saw the Doc

uments.

(By Associated Press.) WASHINGTON, Jan. 12 .- Attorney

General Bonaparte tonight issued a statement replying to that part of the resolution in regard to the Oregon land grants introduced by him in the KERN IN LEAD senate on January 31, 1908, had been prepared by the attorney general and that his "interest in the matter had been first aroused by a desire to purchase some of the timber land."

senate last February that he had both bought any land anywhere in the west or undertaken to buy any." Mr. Bonaparte sets forth that suits against those holding the Oregon 10; Edward G. Hoffman, 12; Major lands involved in the case have been G. V. Menzies, 9. instituted, a fact that gould have been ascertained by any one upon making 43 votes necessary to nomi-The first |-gan on January 11, at inquiry of his department any time

The attorney general disputes the 4. m. The third began senator's statem at that he had informed him in their conversation that it was the senator's wish to acquire forth that he did not know Senator Tillman had any personal interest in the matter. Says Mr. Bonaparte: Told Him Nothing.
"He never told me a word of any

onnection on his part with an arstated by him, his reason for making these inquiries was that he might better dacharge his public duties; and It is said that the house will pass Cooper, introduced a resolution. sation with me had any private inter-est whether actual or in expecation. of his past record and his present at-I gave him a full statement of the titude toward temperance legislation The resolution authorized the special information which had been collected Another was charges made by Senator to issue a citation to Messrs Char

JUDGE ADAMS' STAR IS WELL **NIGH EXTINCT**

Fickle Fortune Shifts Her Despite Machine Influence, Base to the Camp of H. F. Seawell of Carthage.

FRIENDS OF ADAMS FOUGHT IN VAIN

frey Borne, He'll Carol Light at Early Morn."

(By J. Hooper Caffee.) WASHINGTON, D. C., Jan. 12.-The (Special Correspondent of The Citizen) president dealt a death blow to ring tively to appoint Judge Spencer B. ship in the eastern district to succeed Judge Purstell. The president announced tonight that he will appoint H. F. Seawell, of Carthage.

Judge Pritchard, of U. S. court of Adams finished a bad last. He ppeals, and E. C. Duscan a national considered him "imbpossible." appeals, and E. C. Duscan a national committeeman from North Carolina, made several visits to the white house yesterday in behalf of Judge Adams, but when they returned today the president told them that he would not appoint anybody who was not a resident of the eastern district.

In declining to favor Judge Adams the president gould not be recone to Adams they reluctantly within the saw no reason why are any point that Adams' name, substituting Seav he saw no reason why any number of Judge Pritchard came here in men who reside in the district could lief that his prestige with B not be considered first.

Change of Base.

Judge Pritchard and Duncan, then tiffed in appointing the urned their forces in support of H. the North Carolina me F. Seawell, of Carthage and asked the dent Possevelt declared Ada president to appoint him if the judge eliminated because of resident must be a resident of the district. in which the vacancy exists. Hardly had Pritchard and Duncan left Rosseyelt once before, turn fardly had Pritchard and Duncan lett the executive offices when former Gov-the North Carolina ma briner Ayeock appeared and made a District Attorney A. T. trong appeared in behalf of W. S. Obb the latter was a Aycock did not get any great satis- many of the influences.

The race for the judgeship has real-

it is a safe prediction that he will be ed in defiance of tremendous exertionamed. He will be remember of high influence. North Carolin He will be remembered as a former offensive populist and his earnest campaign in 1898. in behalf of his republican "friends" is still remembered to this day. Mr. Seawell is said to be well qual-seawell bears an unenviable notoriety in consequence of an egging he re-ceived at the depot in Shelby just after he had delivered a scathing depunds. is still remembered to this day. Mr. Seawell bears an unenviable notoriety he had delivered a scathing denuncia tion of democratic principles. applicant for the judgeship had made has withdrawn from the contest,

FOR SENATORSHIP

eve of the caucus which will choose a democratic senator to succeed James He was populist candidate for fleu-Mr. Bonapart also replies to Sen. A. Hemenway, the situation tonight ator Tillman's remark made in the is as complicated as it has been for political campaign of 1898 bad eggs ator Tillman's remark made in the the last ten days. Candidates and were thrown at him at Shelby sta-senate last February that he had "not their managers claim the following tion and he recovered damages from

There are 83 democratic legislators. meridian mean time, within the past four months. Mr. Till 7:12:40. The maximum had intimated no steps had urred at 7:06 10. The been taken despite the resolution

H. T. SEAWELL WILL BE JUDGE IN N. CAROLINA

Judge Adams Finishes. Last in the Race.

ROOSEVELT SAID "NOTHING DOING"

'No More on Prancing Pal- Friends who Went to Washington to Aid Adams Fall Down.

WASHINGTON, D. C., Jan. 12 -- Expolitics today when he declined post- Judge Adams, didn't get it. H. F. Seawell, practically an outsider in the Adams, boss of the republican machine betting will be North Carolina's new n North Carolina to the federal judge- judge. Seawell is a Carthage, Moore county man. It is certain that the president will send his name senate within few days.

Pritchard, Mr. Duncan and the chine men, who follow their le men. Their trip here in beha Judge Spencer B. Adams was fru the president to give the judgest plum to Adams. Finally seeing th grin he found that the pres Robinson of Goldsboro. Mr. Robinnue men, asponintess of the machine,
son also savers too much of the old
to the pententisty. The president refused to chop. Although it cannot be
said that the president took cognisance
publicanism, says the president and
pf fact, it is a peculiar coincidence that bear for the ousting of Holton wer used in behalf of Adams. In both in judgment instead of acting on the y simmered down to Mr. Seawell and chine's advice, and both times he act-

WHO MR. SEAWELL IS.

tion of democratic principles. Mr. Seawell had been a populist and had Seawell sued the railroad for failure distinguished himself by voting to protect him from the odor of the against Roosevelt for president. This "hen fruit" and obtained judgment. is stated simply as a rumor. It is Thomas Settle, of Asheville, another said that Mr. Seawell had said that he would not vote for Mr. Roosevelt frequent visits to the white house and for president if the latter had done of to congress during the last few days. said a certain thing, later finding he Mr. Settle, however, understands that was misinformed, but it is said that heap at \$70,000. When speech of Senutor Tillman, delivered the president will not appoint a man at the from being offended at Mr. yeserday, in which he declared the not a resident of the district and he Beawell the president expressed some time ago his approval of a man who voted as he thought right.

Mr. Seawell in about 45 years of age. He served as solicitor four years from 1894, and in 1898 was a candi-(By Associated Press.) date on the republic ticket for su-INDIANAPOLIS, Jan. 12.—On the perior court judge, and in 1994 was a candidate for presidential elector. tenant governor in 1896. the railroad

The election of Mr. Seawell knocks to pieces the "organization" program, and those who were "in" wish now they had kept out. It was especially desired to put Judge Adams the way it is said, so that E. C. Dun-

(Continued on page two.)

It was the senator's wish to acquire some of the lands, Mr. Bonaparte sets STATE-WIDE PROHIBITION BILL

NASHVILLE, TENN., Jan. 12 —Senthese lands, nor that he intended, ex- ate bill No. 1, providing for the pro-

pected, or even desired at that time, hibition of the sale of liquor in Ten- carry out his threat by publishing in make any such purchase. As nessee, tonight passed its third and his paper an insinuation to the effect In the house today Representative

or decharge his public duties; and it is said that the house will pass Cooper, introduced a resolution, but was totally ignorant until I saw the bill tomorrow. on published reports to the effect that the documents transmitted by the president to Senator Hale, that Sena- of the measure was replete with inci- B. F. Haynes, prominent Methodist for Tillman at the time of his conver- dents, one of which was Former Gov- ministers of this city, have stated that by the department as the result of Dancey Fort. of intimation against and Haynes to appear at once in the protracted investigation made by Messrs. Townsend and McBiair, as special counsel, and which had continued during a considerabl part of the preceding year.

Another was charges made by senator to issue a citation to hecear chapped and Haynes to appear at once in the house and file specific charges, given the proceeding year.

Folk had threatened to ruin him religiously as well as politically if he these "filenious charges,"