

The Wilmington Messenger.

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WILMINGTON, N. C., TUESDAY DECEMBER 25, 1906,

FIVE CENTS

DECISION AGAINST.

Defendants in the Tennessee Lynching Case.

FOR CONTEMPT OF COURT

Sheriff Shipp and 26 Citizens of Chattanooga Involved.

Defendants Objected to Court's Assumption of Jurisdiction in Granting Johnson's Appeal—Court Held that it and it Alone Could Decide That Question—Defendants Had Not Pledged Themselves of Contempt by Sworn Statements That They Had Not Participated in the Lynching.

Washington, December 24.—The supreme court today decided adversely to the defendants the preliminary questions involved in the case of Sheriff Shipp and twenty-six others of Chattanooga, Tenn., charged with contempt for the supreme court in lynching a negro named Johnson after the court had taken cognizance of the case. The opinion was handed down by Justice Holmes, who announced that with the preliminaries disposed of the court would proceed with the prosecution.

Probably the most important point raised by the attorneys for Shipp and his co-defendants was objection to the court's assumption of jurisdiction in Johnson's case. On this point Justice Holmes said:

"Even if the court had no jurisdiction to entertain Johnson's appeal, and if this court had no jurisdiction of the appeal, this court, and this court alone, could decide that such was the law. It and it alone necessarily had jurisdiction to decide whether the case was properly before it. On that question at least it was its duty to permit argument and to take the time required for such consideration as it might need. Until its judgment declaring jurisdiction should be announced, it had authority from the necessity of the case to make orders to preserve the existing conditions and the subject of the petition, just as the said court was bound to refrain from further proceeding until the same time. The fact that the petitioner was entitled to argue his case shows well needs no proof, that the law contemplates the possibility of a decision, either way, and therefore might provide for it."

He also dealt with the contention that the defendants had purged themselves of contempt by their sworn statement that they had not been participants in the murder of Johnson, which the court did not accept. "It had been suggested," Justice Holmes proceeded, "that the court is a party and therefore leaves the fact to be decided by the decedent. But this is a mere after thought to explain some thing not understood. The court is not a party. There is nothing that affects the judges in their own person. Their concern is only that the law should be obeyed and enforced, and their interest is no other than that they represent in every case. On this occasion we shall not go into the history of the motion. It may be that it was an intrusion or perversion of the common law, as is suggested by the propounding of interrogatories and the very phrase 'purging by oath'. If so, it is a fragment of a system of proof which does not prevail in theory or as a whole."

Justice Holmes also announced the conclusion of the court that the lynching constituted a contempt. On that point he said:

"The question was touched in argument, whether the acts charged constitute a contempt. We are of opinion that they do and that their character does not depend upon a nice inquiry whether after the order made by this court, the sheriff was to be regarded as bail of the prisoner in the name of the state alone. Either way, the order suspended further proceedings by the state against the prisoner and required that should be forthcoming to abide the further order of this court. It may be found that what created the unwillingness of its members to submit to the delay required for the trial of the appeal, from that to the intent to prevent that delay and the hearing of appeal is a short step. If that step is taken the contempt is proved. These preliminaries being settled, the trial of the case may proceed."

No announcement was made as to how further proceedings of the court will be conducted, but it is probable that a commissioner will be appointed to take testimony.

Fireworks today at the Carl B. Rehder Candy Co.

PROPHET FROM MASSACHUSETTS

Predicts Solid Support of Both Parties for Roosevelt.

THE WAY HE FIGURES IT OUT

Democrats Will Recognize Futility of Putting up Candidate—Canal Worth More to the South Than a Democratic President—As Long as Roosevelt is President Work on it Will be Pushed.

(Special to The Messenger.)

Washington, December 26.—Early in the present session of congress there flamed in the breasts of the disfranchised inhabitants of the District of Columbia a spark of hope that at last a voice in the affairs of their government might be given them. A bill had been introduced in the house providing that the District should have two elective delegates in congress, and a good deal of sentiment in support of the measure had been worked up. Associations of citizens had endorsed the project, and congress appeared at last willing to lend a sympathetic ear.

But now the District of Commissioners, that triumvirate of presidential appointees who control the destinies of the National capital, and officially veto the proposition. They don't want any delegates in congress, they say, and in saying so they profess to speak for all the people in the District. It would tend to diminish their own importance, it is true; but that isn't the reason they give to congress in opposing the plan. They say it would inject politics into an ideal municipal government; in other words, that the government of the capital of the American republic would be ruined by the adoption of the American system of government.

The views of the commissioners may or may not, seriously influence congress in deciding the question, but the chances are that the contradiction of the American doctrine of "no taxation without representation" will prevail for a number of years to come.

R. G. Underwood, a prominent citizen of Malden, Mass., who was in Washington this week, is one of the most enthusiastic Rooseveltian third-termers to arrive here in a long time. He believes that he will receive substantially the solid support of both parties in opposing the plan. He says it would inject politics into an ideal municipal government; in other words, that the government of the capital of the American republic would be ruined by the adoption of the American system of government.

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TRAGEDIES OF TWO DAYS

McDonald Kills Two Men at Cochran, Ga.—Policeman at Cedartown, Pa., Slays Man in Attempt to Arrest Him. Hightower, at Atlanta, Kills Young Woman and Commits Suicide.

Macon, Ga., December 24.—Gordon McDonald shot and killed Coley Cheney and Herschel Burns at Cochran, Ga., yesterday, as a result of a quarrel. McDonald went to Burns' home and engaged in a dispute and when Cheney and Burns showed a disposition to fight McDonald shot both. He has not been apprehended. All the parties are white.

Cedartown, Pa., December 24.—Policeman Lawrence Hunt shot and killed Tom Powell, a carpenter, yesterday in an attempt to arrest him. Powell had an attempt to shoot in-law and when Officers Hunt and Wright were summoned he advanced upon them with a shot gun and fired. Policeman Hunt was too quick, however, for him and fired at the same time his shot killing Powell.

Atlanta, Ga., December 24.—Walter Hightower, a planter, today shot and killed instantly Miss Bessie Jones, aged 18 years, and then fired a bullet into his own brain. He died several hours later. Hightower has a wife and three small children. Miss Jones had been since last July and between her home and her murderer an infatuation was said to have existed, on account of which Mrs. Hightower had left the husband, however, returning later. Mrs. Hightower sent her eight year old son to wake Miss Jones about 8 o'clock. The boy discovered his father in the room with the young woman. When the father saw his son he fired the fatal shot.

Birmingham, Ala., December 24.—The 48 hours preceding Christmas have been unusually fruitful of tragedies in Birmingham and vicinity. The list includes seven murders, two suicides, one assault which may result fatally, one death by train and one accidental shooting which will be fatal.

Funeral of Late Bishop McCabe. Chicago, December 24.—The funeral of the late Bishop Charles C. McCabe was held today at the First Methodist Episcopal church at Evanston. The interment was in Rosehill cemetery.

Fireworks today at the Carl B. Rehder Candy Co.

NEGROES THREATEN VENGEANCE

Wahalak, Mississippi, in Hands of Negro Mob.

MILITARY ORDERED TO SCENE

Conductor of Train Killed One Negro and Wounded Another Cause of Trouble—Unverified Report That a Fight Had Occurred and Two White Men Killed.

Meridian, Miss., December 24.—According to reports received here tonight the negroes for miles around have congregated about the town of Wahalak, forty miles north of this city, and this afternoon paraded the streets threatening vengeance on the whites because of the killing of one negro and the wounding of another by a conductor of a passenger train on the Mobile and Ohio railroad yesterday while the latter was attempting to quell a disturbance aboard his train. At the town of Wahalak scarcely more than 25 white persons reside and in response to a plea for protection battery I and company D, of the state militia stationed in this city, has been ordered to proceed to the scene. They left aboard a special train at 10 o'clock and should reach Wahalak by midnight. The battery, by instruction, carried a Gatling gun and all the men are heavily armed.

At 8:30 o'clock tonight a message from Scooba, the first station south of the trouble states that a clash has occurred between the two races with the result that two white men were killed. This report, however, has not been verified although railroad officials admit receiving a message detailing some additional trouble.

WILL LAST THREE DAYS

Prediction of Weather Bureau as to Continuance of Cold Wave.

Washington, December 24.—According to Forecaster Henry at the United States weather bureau, the present cold wave will continue for at least three days. The thermometer at the weather bureau at 10 o'clock tonight shows 15 degrees above zero and a drop of 12 above during the night is predicted. Heavy frosts have been reported as far south as Tampa, Fla., where the temperature tonight was 23 above zero. The cold wave extends throughout the southern states.

Jacksonville, Fla., December 24.—The government thermometer reached 24 degrees above zero here today. The damage to oranges and vegetables throughout the state is not yet known, but it is believed the early vegetable crop is seriously damaged.

Atlanta, Ga., December 24.—The government thermometer here today touched 16 degrees above zero, the coldest, by ten degrees, of the season.

SCHOOLS SLIMLY ATTENDED

Children of Hebrew Parents Kept at Home.

New York, December 24.—The agitation against Christmas celebration in the public schools that has been gathering force for the last ten days in Hebrew circles found its climax today when parents, guardians and other protectors of Jewish children—strongly urged and supported by certain east side newspapers—kept their charges from attending the pre-Christmas session to such an extent that schools on the east side reported a decrease in numbers ranging from 13-13 per cent. to 60 per cent. of the pupils registered. One Hebrew principal of an east side school said that the school exercises were not at all of a religious character but consisted of an entertainment in which the children took part and a distribution of small presents from teachers and principals.

Lost Their Lives in Fire.

Norfolk, Va., December 24.—The wife and child of Samuel Poynter, Norfolk county, and the wife and child of William Grimslead of Princess Anne county were last night burned to death at the Grimslead house on Morris Neck, in Princess Anne county while Poynter and Grimslead were in another part of the house. The two men had a narrow escape, being aroused barely in time to make their exit unharmed. The fire is supposed to have started from an overheated wood stove in the room in which the women and children were sleeping.

Three Persons Suffocated.

Staubenville, Ohio, December 24.—A fire that started from over heated stove in the rear of Ira Hillman's bakery last night partly burned the upstairs sleeping apartments. Three persons were suffocated. Mrs. Ira Hillman, age 25 years, Katherine Hillman, aged 2 years, Elizabeth McCoy, aged 13 years, Mrs. J. Grange and Jacob Oxemider were rescued from their rooms unconscious by firemen with ladders. They will recover.

Sixteen Passengers Drowned

Kingston, Ja., December 24.—A sail boat with 25 persons on board was overturned near Montego bay. Sixteen of the passengers were drowned.

Fireworks today at the Carl B. Rehder Candy Co.

N. C. SUPREME COURT SUSTAINED

Law Prohibiting Dealing in Futures Not Unconstitutional.

DECISION U. S. SUPREME COURT

State Law Not Discriminative as Charged—Not Duty of U. S. Court to Disregard Interpretation Fixed by State Court—Prosecution of Keeper of Bucket Shop the Case in Review.

Washington, December 24.—In deciding the case of Gatewood against the State of North Carolina, in which Gatewood was prosecuted for keeping a bucket shop in Durham, the supreme court of the United States today in effect held the state law prohibiting the dealing in futures to be not repugnant to the federal constitution. Justice White delivered the opinion of the court affirming the decision of the supreme court of North Carolina.

After quoting from the decision of the North Carolina supreme court to show that section 7 of the North Carolina law is not discriminative as was charged, Justice White said:

"In the argument it is insisted that the construction given by the supreme court of North Carolina to the statutes is wrong, since in effect it reads out the provisions of section 7, and it is urged that it is the duty of this court to disregard the interpretation affixed by the state court, thereby bringing the statutes within the prohibition of the Fourteenth amendment. But it is elementary that under the circumstances we must follow the construction given by the state court and test the constitutionality of the statutes under that view."

CHARGED WITH LARCENY

Arthur McKenzie Sent to Jail in Default of Bail—Charters Granted.

(Special to The Messenger.)

Raleigh, N. C., December 24.—Arthur McKenzie, charged with stealing three mileage books from the Seaboard Air Line was given a preliminary hearing and sent to jail in default of bail. He was arrested at Richmond and Attorney H. M. Smith, of that city, appeared for him.

Two large charters were granted by the state today, one to the Dry Hollow Mining company, capital stock authorized, one million dollars, at a dollar per share. Place of business Hemp, Moore county, George V. Capps, of Hemp, and Bernard L. Johnson of Baltimore principal stockholders, to mine gold and copper and operate smelters. The other is to the North Carolina Trust Co., Greensboro, capital stock half a million. J. Van Lindley, and others stockholders.

Charters are granted to the Ashepole Furniture Co., of Robeson county. Capital \$25,000. D. G. Rouse and others stockholders.

The Commercial and Savings bank of Lexington \$25,000. J. T. Hendrick and others; the Steele Rankin Wholesale Grocery Co., High Point, \$50,000.

STRIKE ON SOUTHERN PACIFIC

Freight Traffic at New Orleans Almost at a Standstill—Officials of Road State That All Trains are Being Run on Schedule Time.

New Orleans, Dec. 24.—The New Orleans railroads for transcontinental freight to western points was almost completely closed today by the Southern Pacific strike. Other roads offered no through freight to the Southern Pacific.

Union officials claimed that fifty men are on strike in this city. Despite the tie up local Southern Pacific officials declare it is uncertain whether the strike will prove serious. It was said that passenger trains were moving about as usual, though it may be several days before the company learns exactly what it can do towards delivering freight.

Houston, Texas, December 24.—The following official statement was issued today from the office of Vice President Fay, of the Southern Pacific railroad:

"All our trains are being operated on schedule time. There is no delay whatever, and the only trains laid out since the beginning of the firemen's strike was half a dozen switch engines last night."

El Paso, Tex., December 24.—About fifty firemen on the Atlantic division of the Southern Pacific are striking here for 25 cents a day increase in wages and for control of the switch engines. The engineers are fighting the latter contention and it is said the other railroad unions are with the engineers. There has been no delay to the trains. The engineers are breaking in new firemen.

Convoy for Motor Boat Race.

Washington, December 24.—The navy department has assigned the Scorpion to act as convoy for the motor boat race which has been arranged to take place February 8th, from flag to flag, meaning from an American flag at Miami or Palm Beach to the British ensign at Nassau, Bahamas Islands. It is said at the department that in the usual February weather the race across the Gulf stream will be extra hazardous for such small craft, hence the convoy.

MIRACULOUS ESCAPE FROM DEATH

Lindsay B. Hicks Rescued After Entombment of Fifteen Days.

BURIED IN CAVED-IN TUNNEL

Appeared Well and Happy After His Terrible Experience—Dead Bodies of His Five Companions Lay Around Him—Men Worked Heroically to Effect His Rescue.

Bakersfield, Cal., December 23.—Lindsay B. Hicks, released at midnight from an entombment of 15 days in a caved-in tunnel, today appeared well and happy after his gruesome experience. He received the congratulations of friends and neighbors, to whom he related as best he could the feelings he underwent within the dark close quarters of his tomb-like prison near the dead bodies of five less fortunate companions while scores of men worked like beavers day and night for more than two weeks to save him from death by digging through many feet of earth and rock.

Hicks was once a soldier, and he is said to carry some Indian blood in his veins. He was so strong that the stimulants that had been prepared for him were not needed.

It was 11:50 o'clock last night when Hicks was released. The last cut on the drift was made at 11:12 o'clock and no sooner was the segment of debris removed and the way left open than Hicks began to scrape away the rocks and earth and crawl toward the opening.

With arms in front of his head, he went into the miniature tunnel and began to work his way slowly through to the other side of a dump car, near which he has remained during the excavating. When he had progressed about half way, he stopped, and Superintendent Frank Miller, who stood at the tube at the mouth of the shaft, called out and asked what was the matter.

"Oh, nothing," Hicks called back. "I'm just going to stop. I'm out of wind. My wind is very short, you know."

Then Hicks moved a few inches further toward freedom, and his arms were seized by Dr. Stinchfield and Miner Gents, who pulled him into the main tunnel, where he was placed in a sitting position. The blindfold that Hicks had been ordered to put on was removed, as the tunnel was only dimly lighted by candle. With tears in his eyes, Hicks said to Stinchfield:

"I am feeling fine. I can never thank you, doctor, for what you have done."

He then thanked Superintendent Cone, of the Edison works, who later expressed his gratification at the miner's rescue.

While working on a tunnel that was built by the Edison Power company near Bakersfield on December 7, the vertical walls of a deep cut fell in on Hicks and five fellow workmen. It was first thought that all had perished.

Three days later a tapping on the iron rail of the little tramway running through the drift gave the first intimation that a man still alive was buried beneath the debris. The rescue work has progressed steadily since.

While the last steps were being taken in his rescue Superintendent Cone, who led the rescue, called to Hicks and told him he was still on the pay roll. He said:

"You have been a most faithful man, Hicks; you have been on duty 15 days and nights, and never asked for a day off. You have been drawing pay all the time."

BASKETS FOR THE POOR

Distributed Yesterday by the Salvation Army in Many Sections of the City. Christmas Tree for the Children.

Laden down with many baskets, filled with choice edibles, several wagons started from the Salvation Army headquarters yesterday afternoon, to visit many poor families in different sections of the city who were each presented with one of the happy reminders of this glorious holiday season. This praiseworthy undertaking of the Salvation Army, which meant the bringing of relief to many families who otherwise would not have known the pleasures of a happy Christmas, merited and received the hearty support of a large number of Wilmington people. Fruits in abundance, food in variety and quantity, and many donations of money were made and all have been used in the relief of suffering of the worthy poor.

Each basket contained fruit, and coffee, sugar, meal, canned tomatoes, onions, bread and other things, and a live chicken was given to every family visited.

The Salvation Army people realize, though, that Christmas is primarily a season for the young people and children, and knowing that there would be large numbers of these in the city who would not have the opportunity of enjoying the season, they have planned for a big Christmas tree to be given Thursday night at the army barracks on Princess street, when presents will be distributed to the children of the poor.

Fireworks today at the Carl B. Rehder Candy Co.

REVIEW OF WORK.

Splendid Record of the Life Saving Service.

REPORT OF SUPT. KIMBALL

Many Thousands of Lives Saved Through Its Instrumentality.

Total Value of Property Saved Estimated at \$12,000,000—Establishment Comprises 279 Stations—Timely Warnings of Crews Kept Many Vessels from Disaster—Valuable Service Was Rendered at San Francisco During the Earthquake and Conflagration in Fighting Fire and Sheltering the Homeless.

Washington, December 24.—Important work was accomplished during the past year by the Life Saving service of the government, thousands of imperiled lives and millions of dollars worth of property being saved through the heroism and unremitting vigilance of the life savers.

General Superintendent Kimball of the Life Saving service, shows in his annual report that the number of marine disasters was 849 in the waters of the United States. In these, 49 vessels and 29 lives were lost and 811 persons were succored at the various stations. The total value of property saved was \$12,266,100, while that lost was \$2,775,040. In the disasters 5,330 lives were imperiled.

At the close of the last fiscal year, the life saving establishment comprised 279 stations, of which 230 were on the Atlantic coast, six on the great lakes, 16 on the Pacific coast proper and one each at the falls of the Ohio river and Nome.

Life saving crews rendered assistance of more or less importance to 397 vessels in addition to those which were lost. Patrolmen and station lookouts also warned 97 steamers and 77 sailing vessels which were running into danger, the warning undoubtedly averting disasters which would have caused loss of life and property. The life savers rescued bathers, recovered bodies of the drowned and assisted many persons in distress.

Particularly valuable assistance, it is noted, was rendered by the life saving crews at San Francisco during the earthquake and conflagration last April in fighting the fire, transporting supplies and sheltering the homeless.

Superintendent Kimball says that the problem of installing power in a life boat without reducing its carrying or destroying its self-righting property has been solved and during the year seven of the largest sized life boats have been equipped with gasoline engines. They constitute a most important addition to the life saving equipment, and materially enlarge the radius of the effective work of the crews.

FIRE IN MARIETTA, GA.

Plant of Georgia Manufacturing and Public Service Company Badly Damaged—Paper Mill Practically Destroyed.

Marietta, Ga., December 24.—The plant of the Georgia Manufacturing and Public Service company, which supplies the city with water and electric lighting, was badly damaged and the Marietta paper mill, owned and operated by the public service company, was practically destroyed by fire today. The loss is placed at \$250,000, fully insured. The fire was discovered early today in the store room of the paper mill and is supposed to have been caused by spontaneous combustion. For a time the entire business section of Marietta was threatened, and Atlanta was called on for aid. The fire department was handicapped by an inadequate water supply and by a strong wind. For several hours the Western Union Telegraph wires were interrupted by the fire and communication between Atlanta and the north was suspended.

TO PRESERVE ORDER

All Saloons in Atlanta Closed Until Wednesday Morning.

Atlanta, Ga., December 24.—To avoid a possibility of any repetition of the race rioting here Mayor Woodward ordered all the saloons closed from 4 o'clock this afternoon until Wednesday morning. For several weeks indefinite rumors have been heard that Christmas was to be the occasion of an attack on the negroes in Atlanta. The rumor could not be traced to an authoritative source but the effect has been to drive many negroes from the city.