

DECISIONS OF SUPREME COURT

President Patrick Wins in the Contest for the A. & N. C. Railroad.

SHARP PASSAGES BY MEMBERS OF THE COURT

Four Opinions in the A. & N. C. Case—New Agricultural Board Wins—Barnes Bros. Lose the Printing Case—Dr. Burns Loses—Republican Won Asheville Court Clerkship.

The Supreme Court yesterday rendered opinions in all five of the pending political cases.

The result of the decisions in these cases is that D. W. Patrick, the president, and the fusion directors of the Atlantic and North Carolina Railroad, remain in control; that Edwards & Broughton continue to act as the public printers; that the new Directors of the Agricultural Department are as much directors as the old members of the board; that Wilson, the Republican, is reinstated clerk of the Western Criminal Court; that C. C. Cherry, Democrat, succeeds Rev. J. B. Burns as keeper of the capitol.

In the Atlantic and North Carolina Railroad case all of the members of the court wrote opinions, save Justice Douglass. The opinion of the court was written by Chief Justice Faircloth. Then Justice Furches wrote a concurring opinion, Justices Clark and Montgomery wrote dissenting opinions.

Three of the justices wrote opinions in the Western Criminal Court clerkship case. Justice Furches wrote the opinion of the court, while Justice Douglass wrote a concurring opinion. A dissenting opinion was written by Justice Clark.

The court was unanimous in its decisions in the Burns-Cherry case, the public printing case and the Agricultural Board contest.

The decisions of the court are highly interesting, but they are almost overshadowed by the references of two members of the court to each other. Here is a remarkable extract from the "addenda" to Judge Furches' opinion in the Western Criminal Court clerkship case, Judge Clark being the "member of this court" referred to:

"It has been suggested by a member of this court that the Legislature has the power to impeach a judge; that it has been recently done, and that there is no appeal from its judgment.

"Such a suggestion as this has never occurred in the history of this court until now. . . . Remembering our position as members of this court we will not express our sentiments as to such suggestions and will only say that, in our opinion, any member of any court who would allow himself to be influenced by such suggestions is unfit to be a judge."

Justice Clark's dissenting opinion in the Wilson-Jordan case is ably written. His argument is strong and forcible.

In the case of Cherry vs. Burns, the court held that the office of keeper of the capitol was not a Constitutional office, and that the legislature had a right to elect, thus upsetting the contention of counsel for Burns.

In the contest among the Directors of the Agricultural Department it was held that the office of Director is not a Constitutional office, and that the legislature had the right to increase the membership of the board. The result of this decision is that the Democrats will take control of the Agricultural Department June 15th.

The court held in the public printing case that Barnes Bros. had no contract in writing, or in fact, and that the contract with Edwards & Broughton continues in effect.

The decision in the case of Wilson vs. Jordan is considered by many to be indicative of the result in the case of Abbott vs. Beddingfield. It is claimed that the cases of Wilson and Abbott are similar.

EDWARDS & BROUGHTON WIN.

Decision Against Barnes Bros. for Public Printing Contract.

Barnes Bros. lost their suit for the public printing contract. The court upheld the legislative committee in its award of the contract to Edwards & Broughton. The opinion of the court was written by Justice Montgomery and decided by a unanimous court.

CAPITAL PRINTING COMPANY, Appellant, vs. Hoey et al. From Wake. Affirmed. Contract. Mandamus.

The defendants who composed the Joint Committee on Printing in the General Assembly of 1899 advertised in accordance with an act for bidders for the public printing. Plaintiff was ascertained to be the lowest responsible bidder; his bond was adjudged sufficient, and the committee accepted

its bid and tendered it a contract, which plaintiff refused to sign, insisting that it was unauthorized by the act. Thereafter the committee, in pursuance of a joint resolution, signed a contract for the public printing with defendants Edwards & Broughton and Uzzell.

Plaintiff claims that the acceptance of his bid constituted a contract to award it the public printing; that the resolution authorizing the contract with Edwards & Broughton is unconstitutional, for that it ignores the plaintiff's vested right under its contract with the committee, and this action is for the injunctive relief and for mandamus to compel the committee on printing to award the plaintiff the public printing.

Held, that the acceptance of the plaintiff's bid did not constitute a contract, and that a mandamus cannot issue, as its effect would be to annul the contract entered into with Edwards & Broughton and Uzzell, who being lawfully in possession of their contract, are entitled to a trial of their rights thereunder, according to the usual course of the law.

CHERRY KEEPER OF CAPITOL

Court Decides Against Dr. Burns—Opinion by Judge Furches.

The court decided in favor of C. C. Cherry as against Dr. J. B. Burns in the contest for the office of keeper of the capitol.

Justice Furches rendered the opinion of the court. In that opinion the judge says:

"If this office is a constitutional office, we should hold that the legislature could not fill it or provide for it being filled, otherwise than is provided by the Constitution. Then, is it a constitutional office? If so, why is it so? It is not named in the Constitution, and the only ground for this contention made in the argument was that it was an office existing at the adoption of the Constitution and was thereby recognized by the Constitution, and the fact that Judge Pearson, in delivering the opinion of the court in Walker vs. Bledsoe, 68 N. C. 457, called the 'keeper of the capitol' a constitutional office. It seems to us that it cannot be held to be a constitutional office, because there was a 'keeper of the capitol' at the time the Constitution was adopted. If we were to hold this, it is probable there would be more than one thousand offices in the State that are constitutional offices that have never been so regarded by lawyer or layman. This is an instance in which a great judge has slipped in giving expression to an ardent but erroneous view. . . . These cases are to be viewed in the light of the amended Constitution of 1875.

"The amended Constitution of 1875 leaves out that clause which prohibits the legislature from filling any office, and also that clause, 'or which shall be created by law.' These were important provisions, and must have been stricken out of the Constitution of 1875 for a purpose. It is said that it was done in consequence of the decisions in Walker vs. Bledsoe, supra, Nichols vs. McKee, N. C. 429, and that line of decisions. If that is so (and we think it probably is), it affords us some aid in construing the Constitution of 1875, and leads us to the opinion that the legislature may fill any office.

"The only remaining question is the election of the plaintiff. . . . The certificate shows that there was an election, and, nothing else appearing, the law presumes a quorum and that the election was regular."

THE NEW BOARD IS ON TOP.

Supreme Court Unanimous in Declaring Valid the Election of New Agricultural Directors.

The contentions of the old Board of Directors of the Agricultural Department were disposed of in short order. The validity of the election of the new directors was sustained in a unanimous opinion written by Justice Douglass. The title of the case was John S. Cunningham et al. vs. W. C. Sprinkle et al.

Justice Douglass, in the opinion of the court, said:

"The points in the case, however important, are comparatively simple and clearly presented. There is no effort to remove the defendants from office, or to deprive them of any rights of property therein. It is true that their influence may be materially diminished by so large an addition to the membership of the board, as one vote in nine is worth more than one in twenty-four; but they still have the right to cast their votes when and how they please.

So there appears to be no obstruction of property rights. The question is purely upon the rights of the plaintiffs to act as members of the board. After the elaborate opinions of the court, as well as those concurring and dissenting, filed at this term upon questions of title to office, but little is now left to be said. Upon the authority of the cases of State's Prison vs. Day and Cherry vs. Burns, both filed at this term, together with the cases therein cited, we feel compelled to say that members of the Board of Agriculture are not constitutional officers, and that being of the legislative creation, they are equally within the power of legislative appointment. It is true that article 111, section 17, of the Constitution, as amended by the Convention of 1875, provides that the General Assembly shall establish a Department of Agriculture, Immigration and Statistics, under such regulations as may best promote the agricultural interests of the State, and shall enact laws for the adequate protection and encouragement of sheep husbandry. This section does not profess to establish any such department, but simply directs the legislature to do so, leaving to it the largest latitude of regulation. Admitting that this section is mandatory, it is not self-executing; as further action, and intelligent action, would be necessary on the part of the legislature to bring the new department even into existence, but more to give it form and action. While the imperative duty and unquestioned power rests with us to declare null and void any act of the legislature that may be in violation of the Constitution, we must concede to that coordinate branch of the government absolute freedom of discretion in the lawful exercise of its constitutional prerogatives. . . .

CASE OF WILSON VS. JORDAN.

Opinion of the Court by Justice Furches—Wilson vs. Jordan, from Buncombe. Error. Opinion by Furches, J.

V. S. Lusk and Frank Carter for Appellant. Moore & Moore, Carter & Weaver and Shepherd and Busbee for Appellee.

The case of Wilson vs. Jordan, involving the office of Clerk of the Criminal Court of Buncombe county, was also decided yesterday in favor of the plaintiff Wilson (Rep.) and against the defendant Clerk Jordan, who ousted Wilson after the passage of the act of March 3, 1899, which the court now declares null and void, so far as Wilson's interests are concerned.

Three vigorous opinions in this case were filed yesterday, one by Judge Furches, which follows, giving the opinion of the court, one by Judge Douglass concurring, and one by Justice Clark, dissenting, which is also presented below.

THE OPINION OF THE COURT.

The Legislature of 1895, ch. 75, established Criminal Courts in Buncombe, Haywood, Henderson and Madison counties. These courts had only criminal jurisdiction. It was provided in that act that these courts should compose a criminal circuit, and that the judges of the act of March 3, 1899, which the court now declares null and void, so far as Wilson's interests are concerned.

The legislature of 1897, ch. 6, amended the act of 1895 by giving these courts civil as well as criminal jurisdiction, and by changing the name to "circuit" instead "criminal circuit" courts.

And the same legislature, chap. 7, created a similar court in McDowell county, with the same jurisdiction as those of Buncombe, Henderson, Haywood and Madison counties, and placed it in the "circuit" with these counties, and to be held by the same judge.

Under this legislature these courts were organized, and a judge and clerks elected by the people.

The plaintiff being elected for the county of Buncombe, gave his bond and was inducted into office as clerk for a term of four years, which has not expired; and the plaintiff is still entitled to this office, unless he has been removed therefrom by the legislature of 1899.

The legislature of 1899, by an act passed the 27th of February, enacts as follows:

"Sec. 1. That the criminal circuit court composed of the counties of Buncombe, Madison, Haywood, Henderson and McDowell, be and the same are hereby abolished."

And it provides that all the business pending in those courts be transferred to the Superior Courts of their respective counties.

On the 31 day of March, four days thereafter, the Legislature passed another act, entitled, "An Act to establish the Western District Criminal Court."

This act is elaborately drawn, being almost a perfect copy of the act of 1895, except as will be pointed out hereafter.

On the 6th day of March, three days after the passage of the "Act to establish the Western District Criminal Court," the legislature passed another act, entitled "An Act to abolish the Criminal Circuit composed of the counties of Buncombe, Madison, Haywood, Henderson and McDowell."

If the act of the 27th of February, 1899, stood alone we would hold that it "abolished" the Criminal Court of Buncombe county, though it does not say that it abolishes this court. It says that the "Criminal Circuit Court" (of the counties named) is abolished.

If no other act had been passed, re-establishing this court, the intention of the Legislature would be manifest, and it would be our duty to hold that this court was "abolished."

If the Circuit Court of Buncombe has been abolished and not restored by

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THE RALEIGH STUCK IN MUD

Ship's Pilot Did Not Know the Channel.

ALL PLANS DISARRANGED

Charlestonians Had Prepared to Burn Some Gunpowder and Give the Cruiser a Rousing Welcome. The Ship is Not Injured.

Charleston, S. C., May 9.—The cruiser Raleigh went aground this morning 200 yards from the entrance of Charleston harbor. She is resting in an easy position. Tugs have been started out to pull her off at high water. The cutter Hamilton reports that the cruiser will have no difficulty in getting off. So far as is known the Raleigh is uninjured.

The cruiser is stuck on the north breaker. Pilots here say that the trouble occurred because the ship's pilot did not know the channel. The Raleigh had not reached the main entrance to the harbor when she struck the mud.

The cruiser was to have come up to the city at 1 o'clock, when salutes were to be fired in her honor. Cutters were to meet her and a big welcome had been arranged. All plans have been interfered with by the accident. Captain Coghlan sent word to the city that he would have no difficulty in leaving the mud, and the cruiser would probably come up to the city this evening.

Washington, May 9.—Secretary Long received a dispatch from Captain Coghlan stating that the Raleigh was aground on the bar outside of Charleston harbor. She will probably float tonight at high tide. He reported the Raleigh uninjured.

The Cruiser Floated.

Charleston, S. C., May 9.—The cruiser Raleigh, which struck in the mud at the entrance of the harbor this morning while en route here to attend the celebration of the United Confederate Convention, was pulled off by tugs uninjured at high tide this afternoon. The accident necessitated the postponement of the program arranged for the reception of the cruiser until tomorrow. The Confederate Reunion celebration begins tomorrow. General Wheeler will deliver an address.

MOVING ON CHARLESTON.

Large Number of Delegates Go from Wilmington and New Bern.

Wilmington, N. C., May 9.—Special. A large force of Confederate veterans moved on Charleston from this city this afternoon, eager to participate in the reunion. The party embraced not only many Wilmingtonians, gallant old fighters, but a number from New Bern as well. The latter arrived in the city this morning and joined the delegation here. The veterans were accompanied by a large party of ladies. The delegates from the four lodges of Odd Fellows in this city left this morning for Raleigh to be on hand at the session of the grand lodge.

Memorial day will be observed in Wilmington with as much appropriateness and loyalty as ever, although the absence of so many of the veterans will, of course, detract from it much enthusiasm. Captain W. T. Bell, of Rutledgeford, will be the orator of the occasion.

STORM AT NORFOLK.

Great Damage Done to Truck Farms and Growing Crops.

Norfolk, May 9.—Latest reports from adjacent counties show that last night's storm was most destructive. The wind attained a velocity of seventy miles an hour at times. It uprooted trees, smashed window glasses, tore up potato and tomato vines, and in some instances tore outposts loose from their foundations and carried them a distance. At Maple Shade farm huge trees were uprooted and growing crops were injured. Half an inch of rain fell in less than half an hour. The storm seems to have cut a wide path, going through North Carolina.

SITUATION IN SAMOA.

A British Planter Who Was Held Prisoner by Natives Relates a Frightful Experience.

Apia, May 4, via Auckland, May 9.—Pending the arrival of the commissioners hostilities have been suspended. British soldiers recently visited the battlefield of Valima. They recovered an American machine gun which Matafaans had captured. Matafaan forces at Lotopua and Valima extended two miles in length. They had dug numerous trenches and rifle pits. It was discovered that a number of rebels had died from the effects of explosion of shells without having been wound-

ed. When the armistice was arranged the rebels withdrew from their intrenchments singing war songs of the vanquished. Americans and British are scouring the country in search of lead from which natives make bullets. A British planter, whom the rebels held prisoner six weeks, has arrived at Apia. His experience during captivity was frightful. He was threatened with beheading several times. Captain Sturdee, a British naval officer, went through the rebel lines unmolested. He found everything quiet. The British cruiser Royalist has sailed for England by way of Sydney. Dr. Solf, president of the municipal council, has arrived from the United States. He will do nothing until the commissioners arrive. Five officers of the Philadelphia arrived here on the steamer Mariposa. The armed collier Brutus will remain at Apia all this month. An American sailor, resisting a crew for drunkenness, was shot and slightly wounded by a marine who was arresting him.

ROUND-UP IN DURHAM.

New England Editors Expected There This Week—Monument Movement.

Durham, May 9.—Special.—The New England Newspaper League will close their tour of Dixie by visiting Durham the latter part of this week. Mr. C. F. King, chief of staff and general manager of the league, has written to Mr. W. A. Slater, president of the Durham Business Men's Association, in which he says: "Our party will visit Durham the latter part of this week, possibly Saturday, at which point it is proposed to close our most remarkable tour of the South, which has covered a period of ten weeks and during which time we have visited all the leading sections of ten great Southern States. Col. J. S. Carr, of Durham, will be aboard our car when we arrive in your city, and I leave no doubt that the closing incidents will be the most enthusiastic as well as the most pleasant of the entire tour. Colonel Carr has agreed to join our party at Charleston next Thursday and remain with us until the close of the tour at Durham, which will probably close Saturday, the 13th inst." There was a meeting of the Business Men's Association tonight to make arrangements to entertain the Northern editors.

Dr. J. C. Kilgo has returned from a trip to Nashville, Tenn., where he attended a meeting of the Board of Education of the Southern Methodist Church.

The Confederate veterans, nearly one hundred and fifty strong, left here on the 3:10 train this morning for Charleston. Several of the old soldiers did not wake up in time, and were left. They followed on the 9:55 train this morning.

The movement to erect a monument to the memory of the Durham soldiers who died during the war with Spain has taken a definite shape and a meeting will be held Thursday night to raise funds for that purpose. An appropriate service will also be held on the 23d of this month to commemorate the death of young Matthew Barbee, who was killed in a railroad wreck last May.

Molineux Discharged from Custody and Immediately Taken on Another Warrant.

New York, May 9.—The grand jury today refused to find an indictment against Molineux, accused of the murder of Mrs. Adams. Molineux was arraigned in court and discharged. On leaving the court he was re-arrested on a warrant charging him with assault in the first degree. Molineux, now charged with poisoning, which caused the death of Mrs. Adams. On the latter charge he was re-arrested before Justice Jerome in the Court of Special Sessions, who fixed the hearing of the case for tomorrow.

NATIONAL LEAGUE GAMES.

Table with 2 columns: City, Score. Includes New York, Washington, Baltimore, Philadelphia, Pittsburg, Cincinnati, Cleveland, St. Louis.

Galicians Driven Hither by Famiae.

Hamburg, May 9.—Steerage quarters of German-American liners are crowded with Galicians emigrating to the United States in consequence of an oppressive famine at home. Fifty thousand are on the way or preparing to leave. The Patricia, the last steamship leaving for New York, took 2,500, and the Graf Waldersee, the next vessel sailing, will carry 2,500 more. Bookings for future sailings are filled, and North German Lloyd liners are similarly crowded.

Ship Wrecked and Many Drowned.

Adelaide, Australia, May 9.—The British ship Loch Sloy, from the Clyde, January 5, for this port and Melbourne, was wrecked on Kangaroo Island April 24. Most of the passengers and three of the crew were saved. Five passengers and twenty-five of the crew were drowned. Three survivors are still wandering in the bush.

TRENCHES WERE NOT ABANDONED

Filipinos Were Not Expected.

A MINNESOTA MAJOR SHOT

Typhoid Fever Patients Brought In From Lawton's Division—Transport Roanoke Arrives from Manila With Discharged Soldiers.

Manila, May 9.—A battalion of the Thirtieth Minnesota Infantry, reconnoitering yesterday in the direction of San Miguel, were suddenly attacked by Filipinos from trenches which had apparently been deserted. Major Diggle fell at the first volley, shot in the head. One private was wounded. The Americans made a series of charges upon the trenches and put the enemy to flight. Ten typhoid fever patients have been brought here from Lawton's division.

The Charleston Leaves Hong Kong.

Washington, May 9.—Secretary Long received word today from Admiral Dewey that the Charleston had left Hong Kong this morning. The destination named in the dispatch was Agarri. No such place could be found on the map. It is believed that Dewey meant Aparri, a town on the northern end of Luzon.

Transport Arrives from Manila.

Washington, May 9.—The War Department gave out the following today: San Francisco. The transport Roanoke arrived today with the following military passengers: Captain Kimball, Quartermaster Surgeon Frazier, seven enlisted men, and twenty-three discharged soldiers. No deaths during the voyage. SHAFER.

Adjutant General, Washington.

The transport Puebla left for San Francisco on the 7th; the Zealandia today. OTIS.

MUTTERINGS OF RACE CONFLICT

Negroes Reported to Be Organizing to Take Revenge for Recent Lynchings.

Sargents, Ga., May 9.—Negroes of North Covetta have been holding nightly secret meetings, discussing the recent lynchings and organizing for revenge. Charles Sewell overheard the discussions and went in among them, warning them against such proceedings. Pope Jones visited those on his farm, advising them to desist from further proceedings of the kind. Green Kirkland, one of the leaders among the negroes, received an anonymous letter, giving him five days to leave the county. He left last Sunday.

It is reported that negroes about Carrollton are holding secret meetings, planning some kind of demonstration. In all this section there is a feeling of uneasiness and uncertainty. The majority of negroes can be depended upon to maintain order and discourage any attempt on the part of the riotous portion to create trouble; but should the latter band together, it would be difficult to prophesy where the trouble would end.

ON ITS LAST LEGS.

A Local Tobacco Trust in Philadelphia About to Go to Pieces.

Philadelphia, May 9.—The Penn Tobacco Company, organized last January to control the smoking and plug tobacco concerns in this neighborhood, is on the verge of dissolution and will in all probability not last another week. Several of the largest jobbers in this city distrusted the concern from the first and declined to enter it, but about nine firms, representing possibly half the business here, entered the trust and turned over their stock of tobacco, the agreement being that they should receive for it common stock. The cause of defection is said to be that the five-per-cent. discount that was promised was not paid, and that the investors never received compensation for stock put into the concern.

Linsay Looking After Appointments.

Washington, May 9.—Special.—Congressman Linsay arrived here today. He visited the Postoffice Department to make some recommendations regarding details of the Winston-Salem consolidation, and later went to the census office to look after some appointments in that bureau. Mr. Skinner will be here tomorrow and be present at the opening of bids for sites for the Elizabeth City public building.

The Detroit Returns to Bluefields.

Washington, May 9.—Secretary Long received a telegram today from the commander of the Detroit reporting the departure of his vessel from Colon for Bluefields.