

JUDGE DOUGLAS TELLS HIS STORY

Made an Excellent Witness, Lawyers Say, and Helped His Case

FURCHES' CHARACTER

"As High as Any Man's in North Carolina"

CLARK'S "OBITUARY"

Judge Douglas Told Clark He Could Get His Protest in Only as an "Obituary."

No Objection to That—Judge Furches Completes His Testimony—Principle Involved in Office-holding Cases—Object of White's Suit Was to Secure Mandamus

The proceedings of the Court of Impeachment yesterday were as interesting as important, and the throng of spectators in lobbies and balconies followed them in rapt attention.

There were several unusually interesting "incidents" that will be found noted in their proper order below, and on the whole the day's developments were as important as any of those preceding it in the course of the trial, if not more so. The cross-examination of Chief Justice Furches was concluded, after the counsel for the prosecution had examined him through Mr. Pott for an hour.

Then four "character" witnesses were sworn and put on the stand, viz., Hon. W. M. Robbins of Statesville, Hon. J. H. Hoffman, present member of the House, Representative from Iredell, Hon. John D. Holman, Representative from Iredell in the last Legislature, and Dr. S. W. Stephenson, Representative from Iredell—all neighbors of long acquaintance of the Chief Justice.

THE MORNING SESSION

High Character of the Chief Justice as Sworn to by Distinguished Neighbors

The first "character witness" examined was Hon. William M. Robbins, ex-Congressman, and in years ago considered one of the greatest Democratic campaigners in North Carolina.

He was examined by Mr. Osborne of counsel for the defense.

"Do you know David M. Furches?" "Yes, for 25 years I have known him well, intimately."

"What is his character and general reputation?" "As good as that of any man in North Carolina, for truth, honesty and integrity, though I always differed from him in politics," added the witness.

Cross-examined by Mr. Watson: "Something of a politician, wasn't he?" "I frequently been a candidate for office, has he not?"

"Yes, he has been a candidate for office. He ran against me once for Congress. I turned him down. He was generally defeated because he resided in a Democratic county. His politics were interfered with our personal friendships—and I learned to love him!" declared the venerable witness with emotion.

Asked by Mr. Watson if Judge Furches was not a "bitter partisan," Mr. Robbins replied:

"No more so than you or I, Mr. Watson. I hated his politics, but loved the man."

"After canvassing the district once for four days together, we were as friendly as brothers personally, though running against one another, and we remained so until the canvass was over."

Mr. John B. Holman, ex-member of the Legislature from Iredell county, was the next witness. He said:

"I have known Judge Furches for 40 years and more. At one time I resided some 40 miles from him, but since he

removed to Iredell to live I have resided within 12 miles of him.

"His general reputation all this time has been good."

Cross-examined by Mr. Watson, witness said in response to question to that effect, that Judge Furches had been a strong party man and some had regarded him as "bitter."

Q.—"Was he not regarded as so bitter that gentlemen of opposite politics refrained from mentioning politics in his presence?"

A.—"I cannot say that. They did not take the liberties with him, politically that they did with some others, in discussing politics."

On re-direct examination Mr. Holman was asked by counsel this question:

Q.—"You have always been opposed to him in politics. I ask you if he was at any time 'bitter' that his politics interfered with your personal relations at any time during all these years?"

A.—"No, sir; we have always been and remain on very friendly terms."

Mr. J. H. Hoffman, another character witness, said that he had been the "next door neighbor" of Judge Furches for many years and a near neighbor for twenty-two years; had known him well during all that time.

"His character and standing is very high—as high as that of any man in Iredell county, as to honor and integrity."

Dr. S. W. Stephenson had known Judge Furches intimately for twenty-five years; known him as well as I do any citizen of our county.

"His general reputation and character is as high as that of any man. Mr. Holman's character is good, also."

Judge Furches Completes His Testimony

Preceding the above testimony, and beginning with the opening of the court, Judge Furches again took the stand to complete his evidence, under cross-examination by Mr. Pott.

Mr. Pott began by questioning the witness about the refusal of the other four judges to permit Judge Clark to file his dissenting opinion or "protest," after the case had been disposed of, and he repeated essentially what he said about it in the direct examination, as printed in the Post yesterday.

Q.—"Did Judge Clark ever withdraw his request for the filing and printing of his protest?"

A.—"I think not. But as I stated, he asked for the return of the papers—as stated by me yesterday."

Q.—"Did not Judge Montgomery say that Treasurer Worth said he (Worth) would pay the claim if a mandamus was issued?"

A.—"I think not. He may have done so, however."

The witness again went over the ground regarding issuance of mandamus. When asked if Judge Clark did not offer to strike out parts of his opinion or protest which he was not allowed to file that might be objectionable to the court, he said he thought that he did, but he felt that Judge Clark was not objectionable to him as there was nothing before the court; that the matter was settled.

Counsel asked if in any decision prior to the Day case the court had ever held that the doctrine that an office is properly applied to an office in which the duties were not similar to the office abolished; the duties were increased or changed; Judge Furches thought such were the facts in the case of State vs. Bellamy. Mr. Pott followed this up by several questions along the same line and inquired if he remembered any case prior to two years ago when a "legislative" office was stated to be abolished by a legislative act that such an act was annulled by the court, the witness said the case of Ellis against Cotten was declared unconstitutional.

Counsel reminded witness that the office of adjutant general had been held to not be a legislative office.

Continuing the witness said Colonel Kenan was told by individual members of the court, and while there was no order made, it was always the sense and expressed opinion of the majority of the court that the clerk's duty, upon application, was to issue it. As a court, no order or advice was given, as to issuance of writ.

Q.—"Did Judge Clark at any time offer to strike out any objectionable parts of his protesting opinion?"

A.—"He may have suggested something of the kind. But he did not at that time make any effort to strike out any part of it. Nor did he state any particular part he would strike out. He did not even have the paper in his hands at the time. He made no such offer at that time."

Q.—"Has the doctrine of Hoke vs. Henderson ever been applied to a case where duties of office were changed?"

A.—"In the case of State vs. Bellamy, there were changes in duties. According to my recollection the name of the corporation and names and duties of some of the officers were changed, and other duties added, I think, in that case. That can be seen from the reports. I have not especially noted as to that."

The witness was questioned as to length on the criminal court district matter. The creation of the western district by the Legislature of 1897, abolished in 1899 by an act and re-created, but enlarged by another act of 1899.

Witness said that these acts were construed together and that the court held that the Legislature could not abolish a court and recreate it in so far as it in-

terfered or annulled a man's property rights in his office.

Q.—"The Legislature can abolish any court it sets up?"

A.—"Yes, if the Legislature had stopped there. But, in the same act, it referred to another act, passed at same session again creating a criminal court, including part of the old district."

In reply to another question the witness said that he could not answer as to what the Legislature can do; only as to what they did and do not do.

Counsel examined witness on the Railroad Commission act. The Legislature of 1899 abolished the Railroad Commission and the Corporation Commission was created in its place, and the court held that this did not abolish the position or railroad commissioner.

The witness said that the court held that the railroad commission was not abolished, since the Corporation Commission had all the powers and duties of the Railroad Commission. This was the decision that retained Dr. Abbott as railroad commissioner or corporation commissioner.

Q.—"Would not the effect of the decision have been the dual existence of the Railroad Commission and Corporation Commission?"

A.—"I think not. Because this was the same board, and the duties belonged to members of this board."

Q.—"In the Day case, was not that the first time it was held that a man had property in the duties of the office as well as the emoluments?"

A.—"The decision was by Judge Montgomery and I do not remember about that."

Witness was asked if Judge Jones, in his case against Ewart, did not put up an absurd defense, if a man has property rights in an office?

In reply Judge Furches stated, in effect, that was not before the court, and he could not determine it on the witness stand.

Questions by Senators

Through the President of the Senate Senators Woodard and Henderson propounded several questions to Judge Furches.

Senator Woodard's question was: "If the Supreme Court did not direct the clerk to issue the writ, and he issued it, any, was made by the court when it ascertained that the writ had been issued?"

This Judge Furches responded as follows: "None, in my opinion. The evidence here says none of either members of the court, except Judge Clark."

The questions of Senator Henderson were promptly answered by the witness, in the following:

Q.—"Why was it necessary to issue a mandamus against the Treasurer before the debt had been determined by the court or Auditor?"

A.—"It was my understanding that the amount of salary was the question before the court, and that was determined by the court."

Q.—"How could the clerk of the court know what the Auditor had done or would do in determining the amount of the claim?"

In answering this and other questions of the witness stated, in effect, that the court only decided the legal question that White was a State officer and entitled to his pay, \$400 a year, and it was with the Auditor to determine the claim. The Auditor had many writs of mandamus had been issued since he was on the bench, or whether the record in this case showed that the judgment was satisfied.

This closed the testimony of Judge Furches, and he retired from the witness stand.

Justice Douglas on the Stand

The "character" witnesses, whose testimony is reported above, were next examined, after which Justice Douglas, the other respondent, was called to the stand.

The hands of the Senate clock pointed exactly to the hour of noon as Justice Douglas took his seat in the witness chair.

The direct examination was conducted by Governor Jarvis:

The witness said he was born in Rockingham county, North Carolina, and was called to the Supreme Court bench in 1896, entering upon the duties of judge and being sworn in on the first day of January, 1897, the February term being the first term held after his induction into office.

Q.—"Which was the first office-holding case that was heard after you came in?"

A.—"The case of Wood vs. Bellamy, in which the case of Pugh vs. Sutherland and Lusk vs. Sawyer were argued at the same term—the 'asylum' cases."

Witness then gave testimony virtually repeating the evidence given on the previous days in Judge Furches' case. Asked if the testimony given by Judge Furches was the same as he understood it, the witness replied that, essentially, it was.

It was a corollary of the testimony Judge Douglas said that the same principle as in Wood vs. Bellamy and the Day case also obtained in the White case; that it made no difference whether the office was taken from White by one man or a dozen. The fact remained that White was deprived of a vested right.

He was then questioned on the White case and said that the case was advanced because State cases were usually, when the public interest was involved.

The Supreme Court adjourned in June and witness was asked why it was in session so long. Judge Douglas replied in part:

"I was largely responsible for that, I think. My health had not been good and I was kept very busy with some important cases. The decision in the case of DeHann vs. the Telephone Company, involving the constitutionality of the Craig act, was given me to write. The court was left open so that I could file these opinions, Judges Clark and Montgomery being here."

He said he knew nothing of the White case except as it came up on agreed suit. The case was argued and a majority of the court held that he was entitled to his mandamus. He had not met White until a few days ago.

Continuing, he said that after the court left and went home the next he heard of it was when Mr. Harris came into court and complained that he could not get the money. Judge Douglas, when questioned, gave about the same description of the incident in the court room when Col. Kenan asked for instructions. Col. Kenan wanted the court to instruct him to issue the writ, which the court declined to do then as there

ALL BLOWN OVER

Peace Reigns Once More at Tien Tsin

THE INCIDENT CLOSED

Slow Progress Made in Discussing Reforms in Chinese Affairs—The Emperor and Dowager to Leave SinganFu

Peking, March 19.—A dispatch from Tien Tsin, received today, states that the impending clash between the British and Russian troops at that place, which it was feared would follow the quarrel over the rights to a railway siding, has been averted. The British officers have withdrawn their guards from the railway switch, and the incident which threatened to cause trouble is considered closed, so far as the authorities are concerned.

The foreign ministers are discussing the various questions of minor reforms for the mutual benefit of foreigners and Chinese in a half-hearted manner, as they expect little from the Chinese under the new order of things. It is understood that the Tsung-Li-Yamen will be continued under a responsible head, with two advisory ministers of the highest rank. The court ceremonials will probably be amended to the extent that an Imperial edict will call to convey the foreign ministers to the imperial presence for the purpose of presenting credentials.

It is reported that the Dowager Empress and the Emperor will leave SinganFu in ten days for Kaifeng-Fu via Hankow Pass. They will reside at Kaifeng-Fu until their return to Peking.

Foreign officials of the consulate and the departments of the imperial household, the imperial body-guard and other yamens left here Friday for Kaifeng-Fu, with the purpose of acting as an escort to the Emperor and Dowager Empress to Peking. They were furnished with passports, which will protect the party from attacks by foreign soldiers while en route.

When the Chinese heard yesterday of the early departure of the American troops from China, and also that the section of the Tartar city which had been controlled by these men was to be turned over to the Germans, they sent a delegation of over two thousand prominent members of the American troops there, asking him to retain the administration of affairs in that locality. They declared that under the American order had been able to secure justice.

A DIFFERENT STORY

British and Russians Facing Each Other Across a Ditch

Tien Tsin, March 19.—The excitement and anxiety here as to the possible developments of the Anglo-Russian siding dispute do not abate. A company of British troops and a company of Russian soldiers remain encamped on either side of the trench, looking at each other. The Russians have orders to fire on any one commencing work.

General Wogack says the trouble was caused by the unwarrantable interference of the British in the affairs of a Russian concession, and he adds that the siding will not be continued unless he receives orders from his own superiors.

Field Marshal Von Waldersee is expected here today. Both sides will appeal to him, but they both consider the matter to be beyond his authority and will await orders from Europe.

Speaking of the attack made by a number of excited French soldiers on some members of the British Sikh regiment, Sunday, in the French concession, General Lorne-Campbell says it was merely a childish outbreak against the order of their own general who had forbidden the French soldiers to enter the British concessions. This order followed a request made by General Lorne-Campbell after almost every resident had complained of the behavior of the French in insulting women, refused to pay for purchases, acting riotously and abusing American and British soldiers. General Voyron, the French commander, recognized that this must stop, and ordered the French soldiers to keep in their own concessions. General Lorne-Campbell was perfectly satisfied that General Voyron was in harmony with himself, and anxious to maintain order. Major Foote, (Ninth United States infantry) says the French soldiers were abusive to women, American troops, who were unarmed, while out on pass, while the French were armed with swords or bayonets. On one occasion an American disarmed a Frenchman and turned over his weapon to the sergeant of the guard, explaining satisfactorily his reasons for the action taken. Major Foote thought that sooner or later the British must act in the interest of the concession.

General Voyron says there is no friction between the French and British. The incident on Sunday, while regrettable, was caused by a few excited men and has no connection whatever with any feeling individual Frenchmen may hold in favor of the Russian claims in connection with the land on which it was proposed to build the railway siding.

Due to Chinese Duplicity.

London, March 19.—The Central News, without giving any authority, states that the difficulty between the British and Russians over the railway siding at Tien

Tsin has been practically settled. The misunderstanding was due to Chinese duplicity in granting two concessions for the same object.

The new arrangement will enable Great Britain to proceed with the siding without any opposition from Russia. If, however, it is proved that Russia's claim antedates that of England the latter will acknowledge Russia's prior claim and act accordingly.

The Central News understands also that the original concession was granted to Russia, and that the communications between Great Britain and the Czar's government on the subject have been of the most cordial nature.

No Trouble Anticipated.

London, March 19.—In the House of Commons this evening, replying to a question about the trouble between the Russians and British at Tien Tsin, Lord George Hamilton, secretary for India, said that there was nothing new to add regarding the situation.

The sentries of both the British and Russians, he added, were facing each other in the trenches, but they had been ordered not to pursue an aggressive course. No disturbance, he said, was anticipated.

DEGRADED MANHOOD

President Gompers on Result of Compulsory Arbitration

Albany, N. Y., March 19.—President Gompers, of the American Federation of Labor, registered a lengthy protest against the Costello compulsory arbitration bill today before the assembly committee on Labor and industry. Mr. Gompers said he deplored strikes as much as anybody, but that there were other things worse than strikes, and degraded manhood was one of them. He declared the bill would degrade manhood as it would bring about a condition of servitude that would be detestable and un-American. He said the bill sought to create a new crime, that of refusing to work for an employer who would not pay wages that were demanded. Mr. Gompers said he did not oppose arbitration, but he declared that the bill was arbitration of a kind that you get at the point of a sword or revolver or a bailiff's warrant. He thought the momentous question of arbitration would work itself out in the course of time so it would be satisfactory to all concerned, and stated that next month capital and labor will come together at a conference in Chicago when this very question would be discussed.

WOOD ALL RIGHT

Administration of Affairs in Cuba Gives Satisfaction

HIS COURSE APPROVED

Reports Conveying a Different Impression Are Without Foundation—Cubans Will Accept Platt Amendment

Washington, March 19.—Secretary Root has authorized the statement that the administration has entire confidence in the conduct of affairs in Cuba by Governor-General Wood. Moreover, the Secretary of War states that the recent course of General Wood in connection with the constitutional convention has been reported quite fully to Washington, and that both the President and himself approved of General Wood's action up to this time.

The statement was brought out by reports of a rather indefinite character to the effect that the administration was dissatisfied with the course of General Wood, and that some of the official information forwarded to Washington did not accurately reflect the real condition of affairs in Cuba. These criticisms have not come from any authoritative source, however, and in view of Mr. Root's statement it will be apparent that there is no ground for belief that differences exist between the administration in Washington and the official in chief command in Cuba, or that the character of the advice forwarded by General Wood is not in every way satisfactory.

Some of the criticisms on General Wood's advice have related to those confidential dispatches he has forwarded here for the purpose of fully acquainting the administration with the trend of events. These accounts are necessarily of the most confidential character, and as they have not been given to the public the War Department officials feel that there can be no intelligent basis for discussing the character of the advice forwarded by General Wood.

It is said that no official information has been received here as to the reported adverse action of a committee of the constitutional convention of Cuba upon the Platt amendment. In the absence of such information the responsible authorities are disinclined to discuss the ultimate outcome of the amendment. There appears to be no disposition to doubt the eventual acceptance of the proposition, yet the officials say that in the present state of information it would be premature to express a positive expectation as to what will be done.

Cape Town, March 19.—Five new cases of plague were reported today. The heavy rate of mortality continues to cause anxiety.

WAR WILL GO ON

Botha Declines to Advise Surrender

DOES NOT LIKE TERMS

British Now Expect to Have to Fight It Out and They Look for a Protracted Struggle with the Boers

London, March 19.—The Boer war is to be continued. The peace conferences between General Kitchener and the burgher leaders in South Africa for the purpose of reaching an understanding that would end the hostilities have come to naught, and there is no telling how much longer the guerrilla warfare will be continued by the remnants of the Boer armies in the field.

In the House of Commons this afternoon Mr. Chamberlain, secretary for the colonies, said that Gen. Louis Botha, commander-in-chief of the Boer army, had informed General Kitchener that he (Botha) did not feel disposed to recommend the British terms of surrender to the consideration of the Boer government. General Botha added that his government, through its chief officers, agreed with his views.

Mr. Chamberlain said he would make General Kitchener's terms public at once.

There is considerable speculation as to the reason for his refusal when the prospects for peace were so bright. It is generally believed, however, that De Wet is largely responsible for Botha's refusal to capitulate, as it is known that De Wet and others among the Boer leaders are very much opposed to ending the conflict.

It is to be presumed also that President Kruger was strongly opposed to giving up the fight. Although it is not known that he has been consulted in the matter of surrender, reports say that Mr. Kruger has not yet given up hope of the current turning in favor of the Boer cause. It is believed that the Boers in the field will now become more aggressive, and it is conceded that in many localities they can give the British forces a great deal of trouble.

A dispatch from Durban, Natal, says: "Over eight hundred Boer prisoners of war have been deported by the Portuguese authorities at Delagoa Bay to Lisbon. This has caused consternation among the refugees, and there is talk of their returning to the notice given by the authorities that the balance of the refugees are liable to be deported in a similar manner on twenty-four hours' notice."

The financial officials who have been sent to Lisbon include Mr. Marais, the former auditor general. Some of the refugees are very wealthy and the shops operated at Delagoa Bay estimate they will lose from £5,000 to £12,000 monthly through the deportation of these people.

"The Boer commandant, Meyers, has solved. He declared he had heard nothing of General Kitchener's proclamation in regard to burghers who came in and surrendered."

SEVEN BURNED TO DEATH

A Whole Family Perish in a Log Cabin

Wellston, O., March 19.—The charred bodies of Jeff Hill, his wife and five children were found last night in the smoldering embers of a burned house, near and his family lived in a log cabin two miles northeast of Wellston. The nearest neighbor, Edward McGinnis, discovered the house in flames at a late hour last night.

It seems that only one door opened out of the room in which the seven members of the family were sleeping. The fire caught in front of that door, blocking the only way of escape.

A little yellow dog, the pet of a younger child, was the only living thing found in the house. The theory was at first advanced that the family had been murdered and the house burned to hide the crime. The coroner held an inquest late last night and found that the fire started from a stove which was near the only door to the house and escape was therefore cut off. Hill himself was almost blind, and was practically helpless.

Mines Will Be Flooded

Shamokin, Pa., March 19.—George Hartsh, secretary of district No. 9 of the United Mine Workers Union, said today that if a general tie-up is ordered, two strike calls will be issued simultaneously, one to the miners and another to the engineers, pump men and firemen. In this event, he says, the mines will flood of their own account unless officials operate the machinery.

Returned to the White House

Washington, March 18.—The president has returned from the funeral of ex-President Harrison. The party left Canton at 10:40 o'clock last night and arrived here at 1:40 this afternoon. A crowd of considerable proportions was at the Sixth street station to welcome Mr. McKinley. The party alighted from the private car Yale at Sixth street

carriages were in waiting for them and they were quickly driven to the White House where another small crowd stood waiting.

The President and Mrs. McKinley were accompanied to Washington by Mrs. James Saxton Barber and Miss Ida Barber, who will remain as guests at the White House for a time.

One Railroad Enough

New York, March 19.—President Jas. J. Hill, of the Great Northern Railroad Company, is quoted as saying:

"It is not true that the Great Northern, with the Northern Pacific, has either purchased a controlling interest in the Chicago, Burlington and Quincy or that we have negotiated a lease. We have secured no interest in Burlington stock through Mr. Morgan or Mr. Harriman. We are attending to our own business in our own way, and find that the successful management of one road railroad can keep us busy."

Professor Stratton Resigns

Chicago, March 19.—Prof. S. W. Stratton, of the physics department of the University of Chicago, has resigned to accept the appointment as a director of the new standardizing bureau at Wash-

ington. His resignation will take effect either in April or July. He will go to Europe, where he will study systems of weights and measures in France, Germany, England and Austria.

Rioting in St. Petersburg

St. Petersburg, March 19.—It is stated officially that during the fights between students, Cossacks and police in front of the Kazan Cathedral Sunday, a Cossack officer and a commissary of police, twenty policemen, four Cossacks, eighteen men and fourteen women were injured. There were 470 arrests, 339 of which were those of students.

A Girl Commits Suicide

Rushville, Ill., March 19.—Miss Nellie Reed, of Huntsville, committed suicide yesterday by taking carbolic acid. She was a daughter of James Reed, one of the wealthiest and most influential men of the country. Miss Reed was recently taken ill and returned home from Carle College. It was thought her mind was affected by hard study.

Tagal Leader Captured

Manila, March 19.—Captain Sparks, of the Eighteenth United States infantry, has captured Diocino, the noted Tagal leader, in Cadiz province, Island of Panay. Two rebels were killed and three, including Diocino, were wounded.

Steel Cars for England

London, March 19.—The Caledonian Railway has contracted with the American Car & Foundry Company for twenty steel cars. It is stated that these will be the first cars of this description to be imported into Great Britain.

JUMPED IN A WELL

Jno. R. Ashe Sought Relief in Death from Business Trouble

Charlotte, N. C., March 19.—Special-A. A. Spolton of Yorkville, S. C., today announces the suicide of John R. Ashe, president and general manager of the York Cotton Mills. Mr. Ashe's suicide is attributed to the failure of the mill which occurred yesterday. The town of Yorkville was aroused about 11 o'clock last night after Mr. Ashe's body had been discovered in a well. Mr. Ashe became very despondent over the failure of the mill and told his wife he was going to kill himself. She was uneasy about him, but did not expect such a serious result.

Mrs. Ashe awoke about 11 o'clock and found that her husband had left the bed. She was alarmed, and awoke others in the household. George O'Leary then went to the well and there, after throwing in a light, saw the body floating in the water. Ropes and ladders were procured and the body was brought up to the surface. Medical aid was called in, but it was too late to do any good. The body apparently having been in the water some time.

Mr. Ashe was president and general manager of the York Cotton Mills, which failed yesterday with liabilities of about \$70,000, and this failure is supposed to have been the cause of his suicide. The York Cotton Mills were built several years ago, and at first made money, but within the last year the mill's capacity had been doubled, and this with the high price of cotton, led to its failure.

Mr. Ashe was a member of the Presbyterian church, was 43 years of age, of good family, and had been successful in business.

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