

THE HIGGS ELECTRIC SIGN STANDS

Supreme Court Decides That Aldermen Exceeded Their Authority.

A NEW TRIAL GRANTED

Judge Furches Wrote an Elaborate Opinion.

JUDGE CLARK DISSENTED

The Two Opinions Contain Warm Reading Matter, Some Feeling Being Exhibited—Judge Furches Says the Mayor and Aldermen Do Not Own the Streets, but That They Are Held in Trust for the Benefit of the Public—Judge Clark Says No Such Decision Was Ever Rendered by Any Court.

The Supreme Court gave the mayor and Board of Aldermen of Raleigh a severe thumping yesterday.

The highest court in the State decided that the city authorities exceeded their power in attempting to make Messrs. Sherwood Higgs & Co. remove the electric sign which ornaments the front of their big dry-goods building. The court held that there was error in the trial of the case in Wake Superior Court, and a new trial was ordered.

Justice Furches wrote the opinion of the court in an elaborate discussion of the points involved in the case. All of the judges concurred in the opinion save Justice Clark, who wrote a dissenting opinion. The opinion of the court, as well as the dissenting opinion, contain lively thrusts, showing more or less feeling on the part of members of the court.

The decision of the court was not rendered until late in the afternoon. Before darkness had set in, Messrs. Higgs & Co. had the sign brilliantly illuminated. The public was quick to realize from the early illumination that Higgs & Co. had won the suit. Many people stopped to congratulate the proprietors. There has never been any desire on the part of the people to have this sign taken down, which is as much of an ornament to the city as it is an advertisement.

What the Court Decided.
The following is a digest of the decision of the court, which was reported for The Post by Mr. Joseph L. Seawell:

A municipal corporation, being a creature of the Legislature, has only such powers as are expressly given it, or such powers as are incident to or necessary in the execution of those expressly delegated.

A municipal corporation holds the fee in the public streets in trust for the use and benefit of the public, and the mayor and aldermen, as agents of the city, are authorized to keep the streets and sidewalks in such condition as to best serve the public welfare, but in exercising this authority they cannot arbitrarily interfere with the private rights of citizens when not demanded by the public interest.

A property-owner has an easement in his frontage upon a public street, subject to the government of the city in the interest and for the benefit of the public. A thing not per se a nuisance is not rendered a nuisance by an ordinance of the city declaring it a nuisance. A sign hanging fourteen feet above the sidewalk and projecting four feet, safely constructed and securely attached to the wall of the building, cannot be lawfully condemned as a "projection or construction," whereby the free and safe passage of persons is hindered, delayed, obstructed or in any way endangered; and the owner of such sign, who refuses to remove the same, cannot be adjudged guilty of a misdemeanor for violating the city ordinance prohibiting the projecting and suspending of signs over the sidewalks of the city. The city authorities may prohibit the projecting of such signs over the sidewalks as are dangerous, or such as tend to impede the travel of footmen, and the ordinance in question is void only in so far as it violates this rule.

A city ordinance prescribing a fine of \$50 or imprisonment for thirty days as a penalty for a violation thereof, is not void for uncertainty.

Aldermen Do Not Own Streets.
A municipal corporation is a creature of the Legislature, and only has such powers as are expressly given it, or such as are incident to or necessary to the execution of the express powers. It seems to be conceded that they had no express power to pass an ordinance requiring the defendant to take down that sign.

But the State contends that the city had express authority to open and grade streets, and clear and keep clear the streets and sidewalks of all obstructions; that the city is the owner of the streets and sidewalks *cujus est solum ejus est usque ad celum*, and that the city authorities have the absolute right to remove any permanent fixture upon or over the streets and sidewalks; that they have the same rights of property over the sidewalks of the city that a private citizen has over his land; and having this right, they have the right, by the exercise of their arbitrary power, to require the defendant to take down his sign.

The fallacies of these contentions are that the mayor and aldermen of the city of Raleigh do not own the streets and sidewalks; that while the fee may be in

all signs suspended over the sidewalks of the city of Raleigh shall be removed by August 15, 1899. No court till now has ever questioned such power, though it has been exercised for centuries in the home of the common law.

In the case of Tate vs. Greensboro, 114 N. C., 392, it was held that the discretionary power over the streets authorized the town council to remove shade trees against the protest of the owner of the abutting lot.

The right to open new and close old streets is certainly greater than the power of removing signs that obstruct the view and impede the circulation of air and light. The right of "superintendence of streets," thus fully recognized by both courts, extends like the defendant's ownership of his own lot, usque ad celum. The city authorities are not chained to surface improvements, but can rise to the level of the occasion.

THE CENSUS OFFICE.

Beginning with Nothing, in Fifteen Months It Has Become an Efficient Machine.

To build up a great office like the Census Office in fifteen months from absolutely nothing to an efficient machine, employing about three thousand men in Washington and about fifty thousand elsewhere in the country, is a difficult task, and entire success is out of the question. The office naturally compares itself with the stage of preparation attained at the same period ten years ago and tried by this test, it has gained several months on its predecessors. One of the problems before it is how to put in the time thus secured in such a way as most to benefit the Census.

In the Agricultural Division the need of time for preliminary work is perhaps as great as anywhere in the Census Office. Farmers, as a class, do not keep their accounts as well as manufacturers, and the returns from farmers may occasionally include serious errors which a trained eye will at once detect. Hence the farm schedules must be examined and such errors corrected before the tables can be made up from them with safety. If a farmer reports that his land sown to wheat was ten acres and the yield four thousand bushels, it is clear that an average yield of four hundred bushels to the acre is incredible, and must be rejected or corrected in accordance with the probabilities. Sometimes the truth can be made out by an expert from comparison with entries in other parts of the schedules; sometimes correspondence must be opened to settle the doubt. All this ranks under the general head of verifying the schedules, and the Agricultural Division plans to give all the time possible to the work of verifying each of the millions of farm schedules. To accomplish this in the time allowed, the work of several hundred clerks will be required, and they must have hard and fast rules to guide them. For example, they might be told: When the wheat reports show a product of over forty bushels to the acre, they are suspicious and must be laid aside for an expert to pass upon.

But any such rules must vary with the section of the country. A yield of twenty bushels in one section might be more questionable than a yield of forty bushels in another. Hence the division must fix in advance what is the range of reports in each part of the country and for each crop that may be accepted as probable on their face and not requiring special examination. To get the limits of probability for this purpose for each county in the United States, that is, the maximum and minimum yield and the maximum and minimum price which may be accepted without verification, is the object of an extensive correspondence now being carried on by the Agricultural Division under the direction of Mr. L. G. Powers, chief statistician in charge of that division. Three simple schedules have been prepared and printed in different colored papers in order that they may be readily distinguished one from another. One of them covers ordinary garden vegetables, a second covers fruits, and the third the great staple field crops. Each asks about the units of measure employed and the net price realized, and the two more important schedules, those for staple field products and for vegetables, ask for the highest and lowest yield of each crop per acre. These schedules are being mailed to prominent farmers all over the country and in many instances returns have already been received. When the returns have been received and tabulated, a scheme will be made from them of what is to be accepted as correct in each case and what is to be probed farther. The only aim of the office is to get what was really the intention of the farmer in answering the questions. If the presumption is strongly against his meaning what the schedule asks, the office will try to learn by correspondence from the supervisor or the enumerator, or the farmer himself what the real facts were.

If the farming public will continue to co-operate with the heartiness already displayed, this effort will result in a more trustworthy census. Farmers, as a class, are less able to co-operate than the representatives of any other great industry. Hence the Census Office can do more for them than it can for centralized lines of business, which can and do make their own investigations, and it will do its best to present a full and accurate photograph of this leading occupation. The director of the census urges every one interested to aid the work.

Glorious News

Comes from Dr. D. B. Cargile, of Washita, I. T. He writes: "Four bottles of Electric Bitters has cured Mrs. Brewer of scrofula, which had caused her great suffering for years. Terrible sores would break out on her head and face, and the best doctors could give no help; but her cure is complete and her health is excellent." This shows what thousands have proved—that Electric Bitters is the best blood purifier known. It's the supreme remedy for eczema, tetter, salt rheum, ulcers, boils and running sores. It stimulates liver, kidneys and bowels, expels poisons, helps digestion, builds up the strength. Only 50 cents. Sold by druggists. Guaranteed.

NEW HOSEY MILL

To Be Located on Dawson and Lane Streets.

WORK TO BEGIN AT ONCE

Mr. Charles E. Johnson Resigns as President and Mr. F. T. Ward Elected to Succeed Him—Committee Appointed to Contract for a Two Story Brick Building and to Order the Machinery.

The directors of the Melrose Hosiery Mills held an important meeting yesterday at the office of Mr. Charles E. Johnson.

The site of the colored Episcopal Church on Dawson, Lane and North streets has been acquired, and the directors decided yesterday to build the factory at once on that location.

Mr. Charles E. Johnson, the president of the new mill, tendered his resignation, and Mr. Frank T. Ward was unanimously elected president in his stead. Mr. Johnson tendered his resignation because he is unable to devote the time to the new enterprise which he believes should be given it. Mr. Johnson is frequently called out of the city on railroad matters, being closely identified with the reorganization of the Seaboard. His resignation was accepted with regret. Mr. Ward was the unanimous choice of the directors.

It was decided to erect a two-story brick building for the mill, and a committee was appointed to contract immediately for the construction of the building and the purchase of the necessary machinery. The committee is composed of President F. T. Ward, Mr. J. S. Wynne and Mr. Van B. Moore.

The site selected is an admirable one. It occupies an entire block, and a board sidewalk passes immediately by it. The property was acquired on reasonable terms. The church has secured a location in the southwestern section of the city and will move the church building to it.

The factory building will be an up-to-date one, and will be built specially for the needs and requirements of the mill. The new mill, which is capitalized at \$25,000, is one of the best offered enterprises in Raleigh, and starts off under the most favorable auspices. The officers are: Frank T. Ward, president and treasurer; J. S. Wynne, vice-president; J. W. Harden, secretary. The directors are: Charles G. Latta, Charles E. Johnson, Van B. Moore and N. W. West, in addition to the officers.

There are a few shares of stock unsubscribed, and the first offers will be taken.

BUTTER VS. BUTERINE

An Object Lesson on the Small Value of Counterfeit Labels.

A Washington special of the 23d says: As in the kindergarten it is customary to teach by pictures and objects which can be seen and handled, so Charles V. Knight, who represents the dairy interests in their fight for a law against buterine, approaches the members of Congress with an object-lesson. With an ingratiating smile, he will draw from his pocket two packages of bright new bills. The sight of new money always rivets a Congressman's attention. Mr. Knight holds out the packages one in each hand. They look just alike, but the band of paper which holds one of the packages together contains in large red letters the legend: "Counterfeit." The bills, as a matter of fact, are all perfectly good but for the sake of argument one package is supposed to be counterfeit.

"Now, would Congress pass a law permitting this bundle of counterfeit bills to be put into circulation, merely because it is labeled?" asks Mr. Knight of the country Congressman. "The bills are just alike, but this bundle is labeled. Now, the first unscrupulous man who gets the bundle tears off the label and puts the bills into circulation. Would the law permit that? Never. That is analogous to the case of buterine. The law allows it to circulate because it has a flimsy little label on it. We propose to have the law changed so that the limitation article cannot profitably be made. Nobody has a right to counterfeit butter and put it into circulation." The Grant bill seeks to put a tax of ten cents a pound on buterine colored to represent butter. The farmers and dairy people are very well organized, and the buterine people, in order to beat their bill, will have to make a determined fight.

The Coming Solar Eclipse

(New York Evening Post.)
The total solar eclipse of the 28th of next May is already well attacked by the astronomers. Sir Norman Lockyer has issued a second edition of his "Recent Forthcoming Eclipses" (1893 to 1905); a new edition of Mrs. Mabel Loomis Todd's "Total Eclipses of the Sun" is just published by Little, Brown & Co., and two lesser works in eclipses are also offered. The coming eclipse will attract many expeditions to the field, the first to take up its station being the "Lowell Expedition," sent out from Amherst, and which is already located at Tripoli in Barbary, in charge of Prof. David P. Todd. Mr. Percival Lowell, now in the south of France, joins the expedition subsequently. Proceeding westward in the order of the regions chosen, Prof. Turner of Oxford will occupy a station in Algeria; the British Astronomical Association which did such good work under Mr. Maund's generalship in India two years ago, will be represented in the neighborhood of Algiers; Sir Norman Lockyer will, as in 1896 and 1898, lead a large party

CATARRH CAN BE CURED BY Johnston's Sarsaparilla QUART BOTTLES.

"DANGER IN THE EARTH AND AIR; DANGER EVERYWHERE."

A Wise and Venerable Doctor Talks about Advanced Science.
In a leading hotel, in a great city, a famous and aged physician was conversing. Listening to his wise and sententious discourse, were a group of well dressed men, evidently lawyers, business men and commercial travelers.
My firm belief is, "that medical science is certain yet to show that all diseases without exception are caused by invisible germs which are living organisms. Here is the germ of that terrible disease diphtheria. Here is the bacillus of typhoid fever; and here is the still more dreadful bacillus of tubercle which causes that most destructive of all diseases, consumption. This of that very common and supposed incurable disease, catarrh."
"I wish, Doctor," said the traveling man, "that you would tell us about catarrh. I have had it for years, and I am thoroughly discouraged."
The Doctor answered: "Catarrh, like diphtheria, consumption, typhoid fever, and a host of other diseases, is the result of a microbe invading the blood and attacking specially the mucous membrane. This foul and most disgusting disease is especially prevalent in the United States and it is rare to meet one who is not, or has not been troubled more or less with it. How often is he or she obliged to remain at home from pleasant entertainments, deprive themselves of many intellectual treats, from fear of the disagreeable odor arising from catarrhal affections. In its worst phase, the patient becomes loathsome both to himself and his friends."
"I believe," continued this great physician, "that the true way to heal catarrh is to medicate the blood. This can be done only by powerful alteratives which act as blood purifiers."
Betsy A. Maret, of Manistee, Manistee Co., Mich., writes:
Dear Sirs:—For ten years I was a sufferer from general debility and chronic catarrh. My face was pale as death. I was weak and short of breath. I could hardly walk, I was so dizzy and had a ringing in my head all the time. My hands and feet were always cold. My appetite was very poor. On getting up in the morning, my head swam so I was often obliged to lie down again. I had awful pains in the small of my back. I had a continual feeling of tiredness. My muscular power was almost entirely gone, and I couldn't go half a dozen steps without stopping to rest, and often that much exercise caused me to have a pain in my side. It seemed as though the blood had left my veins. The doctors said my blood had all turned to water. I had given up all hope of ever getting well. I tried the best physicians in the state, but failed to get any relief. My husband got me a bottle of Johnston's Sarsaparilla. I took it, and then I was another woman. When these had been used, I was somewhat improved in health. I continued its use, and felt I was growing stronger; my sleep was refreshing, and it seemed as if I could feel new blood moving through my veins. I kept on taking it, and now consider myself a well and rugged woman. I work all the time, and am happy. I am positive that the Sarsaparilla saved my life. The sick headaches I have had since childhood, have disappeared, and my catarrh has almost entirely left me. I cannot be too thankful for what Johnston's Sarsaparilla has done for me. I recommend all women who have sick headaches to use your Sarsaparilla.

MICHIGAN DRUG COMPANY, DETROIT, MICH.

The Bobbitt-Wynne Drug Co., Raleigh, N. C.

IS AFTER THE SHERIFFS

Judge Hoke Jerked Up Two in His Court Yesterday.

Wake Court Did a Land Office Business Yesterday—A White Man Got Four Years for False Pretense.

Judge Hoke issued judgments nisi for \$100 each against the sheriffs of Richmond and Cumberland counties yesterday for failure to return capias in cases on the criminal docket of Wake court.

The sheriff of Cumberland county failed to return a sci. fa. and capias in the case of State vs. W. E. Blue, and the sheriff of Richmond county was negligent to the same extent in the case of State vs. E. D. Huntley.

The papers in the case against Broadie Moring, suspected of the murder of his father, Solomon Moring, will not go to the grand jury until the July term, and, unless something tangible turns up in the meantime, the case may never be brought up. The mystery of Moring's disappearance is still unsolved.

The following cases were disposed of at yesterday's session:
State vs. Ernest High, carrying concealed weapon; guilty; \$1 and costs.
State vs. J. H. Jackson, false pretense; guilty; four years in State penitentiary.
State vs. Charles Harvey, assault with a deadly weapon; guilty; \$1 and costs.
State vs. Levy Cotton, larceny; guilty; twelve months on the roads.
State vs. Frank R. Taylor and Frances Rich, fornication and adultery; two months each.

State vs. Lunsford Davis, assault with a deadly weapon; guilty; sixty days on the roads.
State vs. James Conny and Bettie Parrish, fornication and adultery; guilty; four months on roads, latter two months in jail.
State vs. John Dunn and Delie Leo, fornication and adultery; guilty; former six months in jail, latter thirty days in jail.

State vs. Cattie E. Bynum and Walter E. Harvey, false pretense; not guilty.
State vs. Amos Morgan, larceny; guilty; twelve months on the roads. Morgan is the negro who robbed Mr. Bretsch's bakery and assaulted him.
State vs. Sue Lindsay, Harriett Whitaker, Will Brown and Lewis Jones, larceny and receiving stolen goods; not concluded when court took a recess.

The trial of George Lee, the 14-year-old negro charged with poisoning the family of Green Hobby, was set for Friday next.

A Card.
Mr. Editor: I have just seen a letter written by the Hon. Kope Elias, of Macon county, to a friend of mine, in an adjoining county (and this gentleman is a prominent man, in which he states that I have withdrawn from the race for Corporation Commissioner, and insists on this gentleman, my friend, giving his influence and support to my friend, Rogers, for the place. I desire to state that I have never for one moment thought of withdrawing from the race, but am still a live candidate in the fight. And I also propose to make a fair and honorable race, and if defeated will come back to Buncombe county the same (and if possible a better) Democrat than ever and vote the straight Democratic ticket, as I have always done. My party will not have to look back for me. I will be the thickest of the fight. Whether its nominee or not, giving my time, money and whatever ability I have for the accomplishment of the ends and purposes for which every true white man in North Carolina should strive, the adoption of the constitutional amendment. For this and this alone is my only candidate. Respectfully,
JOHN M. CAMPBELL,
Asheville, N. C., March 26, 1900.

Capacity for Self-government.
(Providence Journal.)
The anti-expansionists have the idea that because the Filipino is a debt prone, with a great capacity for picking up new accomplishments, he is fitted for self-government. The negro is a good imitator. The Japanese is successful in his capacity for acquiring new arts quickly. There is no more skillful workman in any branch of involved industry than the Chinaman. The capacity for orderly self-government appears to be a separate faculty, not necessarily limited to those who do not possess mere mental deftness and manual agility, but by no means present wherever these qualities are to be found.

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