

THE RALEIGH EVENING TIMES.

VOLUME 27.

RALEIGH, N. C., MONDAY, SEPTEMBER 24, 1906.

PRICE 5c.

JUDGE WEBB GRANTS THE MANDAMUS FOR PROHIBITION ELECTION

Says Aldermen Knew What the Petitioners Wanted, Prohibition

REV. S. J. BETTS WINS THE SECOND ROUND

Ex-Justice W. A. Montgomery of the Supreme Court for Rev. S. J. Betts and Other Petitioners, and City Attorney Snow for the Board of Aldermen—Appeal Taken to Supreme Court and Case Docketed This Afternoon So It May Be Heard Next Week and Not Go Over To Next Term.

Judge James L. Webb this afternoon construed the Watts law to allow an election to be called on the question of prohibition in a city in the position of Raleigh, that is, having voted in dispensary without having voted on saloons and over one-third of the qualified and registered voters desiring an election on prohibition without the necessity of voting on the dispensary first and then saloons in order to get it.

Judge Webb granted the mandamus prayed for by Rev. S. J. Betts and other signers of the petition for an election, and thereby orders the board of aldermen of the city of Raleigh to call an election to determine whether or not there shall be prohibition in this city.

Last June a petition was presented to the board of aldermen signed by more than the required one-third of the qualified and registered voters asking that the board call an election under the Watts act to determine whether or not prohibition should be established in the city of Raleigh. The petition was denied by the board on the advice of City Attorney Snow, whose opinion was that the petition was too indefinite and did not conform to the law, which says (section 7, chapter 253, Laws of 1903; section 2069, Revisal of 1905):

"It shall be the duty of the governing body of any city or town, upon the petition of one-third of the registered voters therein, who were registered for the preceding municipal election, to order an election to be held, after thirty days' notice, in any year in which the petition may be filed, except within ninety days of any city, county or general election, in time for the notice to be given as above required, to determine (1) whether intoxicating liquors shall be manufactured in such city or town; (2) whether bar-rooms or saloons shall be established in such city or town; (3) whether dispensaries shall be established in such city or town. And any such election may be ordered to determine any one or two or all of such questions, as the petitioners may designate in their petition. No such election shall be held oftener than once in two years."

Rev. Mr. Betts and others of the petitioners retained Judge W. A. Montgomery and Col. J. C. L. Harris to fight the case, and they applied to Judge Webb for a mandamus to compel the board of aldermen to call the election desired. Today at noon the hearing was taken up by Judge Webb, who is here holding court, and the arguments presented by Judge Montgomery for the petitioners and City Attorney W. B. Snow for the board of aldermen.

Judge Montgomery contended that it was a matter of common sense and not so much one of law. The board knew, he said, what the petitioners wanted, and that was the principal thing.

Mr. Snow took the ground that the board was without discretion in the matter and could get its duty only from the act itself, that the petitioners must ask for exactly what they want in the terms prescribed by the act, otherwise the board could not grant what they wanted.

In announcing his judgment granting the mandamus Judge Webb said "Mr. Snow, I am inclined to think this court ought to grant that mandamus. A sufficient number of citizens asked for the election, and it is

very evident what they mean, prohibition as provided for by the Watts law, and I think the board of aldermen know what that means. The other point as to the time of holding the election conflicting with the provision against such election being held within ninety days of a general election, might be provided for. The aldermen are not compelled to call the election at once."

Col. Harris said that his idea was to withdraw the order until after the general election.

"Draw up your order in accordance with the judgment," said Judge Webb.

Mr. Snow then gave notice of appeal to the supreme court, and the judge said it ought to be passed on above.

The case was made up on appeal straightway and goes up this afternoon so that it may be heard this term. Next week is the time for appeals from this district.

The Argument.

At 12 o'clock Judge Webb took up the hearing of the petition of Rev. S. J. Betts and others for a mandamus of Raleigh to call an election in the city on the question of prohibition as against dispensary.

First Judge W. A. Montgomery read the complaint of the petitioners, to the effect that a petition had been presented on June 14 to the board of aldermen for an election to determine whether prohibition should be established in the city of Raleigh in accordance with the provisions of chapter 253 of the laws of 1903, that said petition was signed by more than the required one-third of the qualified and registered voters of the city registered at the last preceding election, that the board had illegally refused to grant the election, and a mandamus was prayed to compel the board to order such election.

City Attorney W. B. Snow read the answer of the board, denying that it had illegally refused to order an election, but that it was unable to do so because it was not its duty according to the law involved. It was admitted that the petition contained a sufficient number of names of qualified and registered voters.

Judge Montgomery.

Judge Montgomery in his argument, said that precedent would not help, much in this matter, so far as he could see.

If there was anything in this question but a dry one of law he did not know it, and if there was anything of feeling or sentiment or any other purpose other than the one appearing on the face of it, he was not aware of it. As for himself, he would say he had been a prohibitionist all his life and could not for his part refuse to sign any petition for prohibition.

After giving a brief summary of the laws of this state regulating the sale of liquor, Judge Montgomery said the Watts law seemed to be intended as an improvement upon the old local option law by limiting the manufacture as well as the sale of spirituous liquors, and that the Ward law was designed as a still further restriction of the manufacture by limiting it to incorporated towns of over 1,900 inhabitants.

The board of aldermen, said Judge Montgomery, had declined to order the election for two reasons, first because the statement was so general and indefinite it meant nothing that it did not comply with the terms of the law; second, that the election, if ordered now, would fall within ninety days of the coming general election in the state.

Judge Montgomery read from the old code to show that the terms "prohibition" and "preventing the sale of spirituous liquors" were one and the same and had been so considered.

The only kind of statute in this state that must be strictly construed, argued Judge Montgomery, were the penal statutes. If the position of the other side was correct, it would be impossible for any honest man of the ordinary people to get a hearing on this question without employing a lawyer to watch it from start to finish. He could not think the legislature intended any such thing.

It could not be denied that the petitioners had pointed out to the board of aldermen what they wanted, but the city officials had hid behind the strict wording of the act, although they must have known what the petitioners wanted.

Suppose if the petitioners had asked that the dispensary be voted (Continued on Sixth Page.)

HIS UNIFORM HONOR'S BADGE

So Declares Roosevelt of the Soldier

A SUIT SO INSTITUTED

The President Gives \$100 Toward Its Prosecution—It is to Test the Legality of Excluding Soldiers in Uniform From Places of Public Amusement.

(By the Associated Press.)

Oyster Bay, N. Y., Sept. 24.—President Roosevelt has contributed \$100 to be used by Rear Admiral Thomas in a legal suit instituted recently at Newport, R. I., to determine whether or not a man be excluded from a public place of entertainment because he wears the uniform of the United States army or navy.

President Roosevelt today made public the following letter which he has sent to Rear Admiral Thomas.

Oyster Bay, N. Y., Sept. 21, 1906.

"Dear Admiral Thomas:

"I enclose \$100 to be used in that suit, which thanks to you has been so wisely undertaken, to test the legality of excluding any man from any public place of entertainment because he wears the United States uniform. I feel that it is the duty of every good citizen to endeavor 'a every shape and way to make it plain that he regards the uniform of the United States army and navy just as much when worn by an enlisted man as when worn by an officer, as a badge of honor and therefore entitling the wearer to honor so long as he behaves decently. There is no finer body of men in all our country than the enlisted men of the army and navy of the United States, and I cannot sufficiently express my indignation and contempt for any man who treats his uniform save with the respect to which it is entitled. If a man misbehaves himself, then no matter what uniform he wears he should be dealt with accordingly; but the fact of wearing the United States uniform should be accepted as presumptive evidence that the man who wears it is all right, and discrimination against the uniform as such is more than presumptive evidence that the man thus discriminating is all wrong."

"Sincerely yours,

(Signed) "THEODORE ROOSEVELT."

PLANS FOR LIBRARY AT THE UNIVERSITY

(Special to the Evening Times.)

Chapel Hill, N. C., Sept. 24.—The plans and specifications of the new University library have been completed by Architect Frank P. Milburn, of Columbia, S. C., and are expected here any day. Upon their arrival they will be submitted to a number of contractors who are anxious to make bids.

The building will cost \$50,000, and Mr. Andrew Carnegie stands for the price of it, his one condition being that the University raise another \$50,000 for its maintenance. The last has been done by friends of the University, and the money is all in. It is being erected none too soon; the present one is already crowded by the forty-odd thousand books in the University library.

At the next session of the legislature the University will make an attempt to secure an appropriation for several badly needed buildings. Among these are a medical building, an infirmary and a building for dormitories and lecture rooms.

SHE RAN AGROUND ON FRYING PAN SHOALS

(Special to the Evening Times.)

Wilmington, N. C., Sept. 23.—With masts, rudder and rigging gone the Norwegian barge Launberga was brought into Southport early Sunday morning in a leaking condition. Friday night the Daunberga ran aground on Frying Pan Shoals. She is lumber laden from Pensacola to Rio. She left the Florida port August seventeenth and was driven out of her course by the recent south Atlantic storm.

WAITING ON HIGGINS

Republicans Are Expecting His Decision

GEORGIA MOBS STILL LYNCH

Negro's Body Found on Limb Near Atlanta Today

(By the Associated Press.)

Atlanta, Ga., Sept. 24.—The body of Zeb Long, a negro, was found hanging in the woods early this morning about half a mile from East Point, a suburb 8 miles south of Atlanta. Long was locked in the East Point jail charged with disorderly conduct. The jail was broken into shortly after midnight and Long was taken to his doom. The usual mystery surrounds the affair. It is not known yet whether Long was suspected of any connection with any of the recent assaults on white women.

The situation this morning in Atlanta on the surface is quiet. The authorities believe that they have the city under control. Last night passed without serious disturbances, although many people were on the streets until late hours. The total number of dead is extremely difficult to estimate. The bodies of those killed in connection with the riots of Saturday night, have been prepared for burial. It is reported on seemingly good authority that several bodies have been taken away for burial and it is equally probable that some deaths have not been reported to the police or other authorities. The exact number of dead is not likely to be known for some days.

Various startling rumors of trouble have been brought to the newspaper offices, but nine-tenths of these have been proved absolutely without foundation, and in other cases marvellous exaggeration was shown. Sixteen companies of state infantry are on duty here and will be kept for some days. The entire city is being patrolled, even to the limits of the residence sections. The outlook this morning, therefore, is encouraging and the passing of last night without serious trouble is considered a hopeful sign.

HEARST MEN HAPPY

Jerome Also Satisfied of Convention's Work

Democrats Gather at Buffalo to Nominate Man for Governor, and Bitter Contest Will Be Waged—Adams, Sulzer and Gaynor Figure.

(By the Associated Press.)

Buffalo, N. Y., Sept. 24.—The day preceding the democratic state convention finds the party leaders still apparently as widely apart as ever as to the head of the ticket. A series of important conferences which extended far into last night were adjourned without any definite conclusion being reached.

The Tammany and Kings county delegations from Greater New York will arrive today. Country to general expectation the Tammany caucus will not be held tonight as at former conventions but may be called for tomorrow night after the first session of the convention has met and adjourned. The agency of Tammany's 105 votes, provided they are held together as usual can be seen from the fact that he membership of the convention is 450 and that only a majority is required to nominate.

Five candidates are most generally spoken of today with an equal number more remotely mentioned as possible candidates. The supporters of W. H. Hearst already the nominee of the independence league, claim he has by largest number of instructed delegates.

District Attorney Jerome of New York has held a number of conferences with some of the arriving delegations, and his followers, including Mayor McFellin of New York city, declare they are entirely satisfied with the situation.

The friend of Mayor John N. Adams of Buffalo are conducting a quiet but earnest campaign in his behalf and say they have met with much encouragement.

Congressman William Sulzer of New York county and Judge W. J. Gaynor of Kings have strong followings.

PREFECT, WIFE AND GUARDS WERE SHOT

(By the Associated Press.)

Tambov, Russia, Sept. 24.—Prefect of Police Tomushak, of Borissogolsk, the home of Mil. Maria Spiridonova, who shot and killed Chief of the Secret Police Luzhenofsky, was fired at and seriously wounded in a street here today by terrorists, who also shot the prefect's wife and two guards who were accompanying them. The would-be assassins escaped.

NEGRO'S BODY FOUND ON LIMB NEAR ATLANTA TODAY

CAN'T ESTIMATE DEAD

City is Quiet After Reign of Blood Saturday Night, But Sixteen Military Companies Are Still On Duty. Latest Victim Merely Charged With Disorderly Conduct.

(By the Associated Press.)

Atlanta, Ga., Sept. 24.—The body of Zeb Long, a negro, was found hanging in the woods early this morning about half a mile from East Point, a suburb 8 miles south of Atlanta. Long was locked in the East Point jail charged with disorderly conduct. The jail was broken into shortly after midnight and Long was taken to his doom. The usual mystery surrounds the affair. It is not known yet whether Long was suspected of any connection with any of the recent assaults on white women.

The situation this morning in Atlanta on the surface is quiet. The authorities believe that they have the city under control. Last night passed without serious disturbances, although many people were on the streets until late hours. The total number of dead is extremely difficult to estimate. The bodies of those killed in connection with the riots of Saturday night, have been prepared for burial. It is reported on seemingly good authority that several bodies have been taken away for burial and it is equally probable that some deaths have not been reported to the police or other authorities. The exact number of dead is not likely to be known for some days.

MURDERED AT NIGHT IN STREET

There was a seven-inch knife wound in the abdomen, and it is the belief that Riens was murdered during the night, as the body gave evidence of several hours' exposure to the air. The killing is a mystery and the police are under the impression that it is a "black hand" murder. No noise was heard during the night in the neighborhood where the body was found, and there was no sign of the weapon used.

The body was removed to the morgue and the police are making an investigation.

A SCORE OF BODIES FOUND IN THE RUINS

(By the Associated Press.)

San Francisco, Cal., Sept. 24.—Another tragedy of the great fire of April 18 has been brought to light through the finding of a score of human bodies in the ruins of a lodging house at Fifth and Minna streets. The lodging house which was a four story frame building was tossed bodily into Minna street in a heap by the earthquake, and immediately took fire. It is said that the fire south of Market street originated in the house.

Fifty persons were in the place at the time of the earthquake, only seven of whom have been accounted for. Mrs. Murray, the landlady, has never been heard from by friends, and it is thought that her body is among those found. She is said to have a wealthy daughter in New York City.

OVER AN INCH OF RAIN IN 10 MINUTES

More rain fell yesterday than on any other day this season during the same length of time. Director Thiessen of the weather bureau here says that two and three-hundredths inches fell in the 24 hours, and over an inch in ten minutes.

One September day in 1901 3.08 fell in 24 hours, and in 1904 there was a fall of 3.04 in a day in September. On the day in 1901 spoken of 2.31 inches fell in one hour. In one hour yesterday 1.27 inches fell.

YOUNG MEN DRIVE A HORSE TO DEATH

(Special to the Evening Times.)

High Point, N. C., Sept. 24.—A careless bicycle rider here yesterday afternoon came very near getting the life stamped out of him by a horse. The fellow had just come alongside of a Mr. Tomlinson, who, with his wife, was driving up Main street, when his wheel dived under the horse's feet. The animal reared its fore legs and came down on the bicycle, smashing it and missing the boy's head only by a hair's breadth. The fellow finally emerged from his awful predicament, bruised somewhat, but wiser.

Two young men engaged a team from a local liveryman Saturday night and drove to Winston. They returned last night, and in ten minutes after arriving at the stable the horse fell dead from over-driving. The parties got away quick soon after returning the horse, but the officers think they will be located today.

SHIP STRUCK BY A WATERSPOUT

(By the Associated Press.)

San Francisco, Sept. 24.—The Examiner says:

By a miracle the Pacific Mail steamer City of Sydney escaped wreck in a high water-spout off the Mexican coast near Acapulco last Sunday morning. As it was, the water-spout struck the stern of the ship, wresting away the stanchions and awnings and terrorizing the passengers, who were awakened by the shock of the hurling waters. Yesterday the City of Sydney reached port and those on board told of their experience.

It was shortly before 4 o'clock in the morning that the water struck the ship. Unnoticed by the lookout because of the darkness the column of water suddenly loomed up within a few feet of the stern with the rapidity of the whirlwind.

MURDERED AT NIGHT IN STREET

(By the Associated Press.)

Pittsburg, Pa., Sept. 24.—The body of Frank Riens, an Italian, aged 34, was found about 7 o'clock this morning lying in the street in front of 4063 Laurel avenue, Bloomfield district, in this city.

There was a seven-inch knife wound in the abdomen, and it is the belief that Riens was murdered during the night, as the body gave evidence of several hours' exposure to the air. The killing is a mystery and the police are under the impression that it is a "black hand" murder. No noise was heard during the night in the neighborhood where the body was found, and there was no sign of the weapon used.

The body was removed to the morgue and the police are making an investigation.

Riens was a well known character about Bloomfield and is said to have been of a quiet disposition.

OVER AN INCH OF RAIN IN 10 MINUTES

More rain fell yesterday than on any other day this season during the same length of time. Director Thiessen of the weather bureau here says that two and three-hundredths inches fell in the 24 hours, and over an inch in ten minutes.

One September day in 1901 3.08 fell in 24 hours, and in 1904 there was a fall of 3.04 in a day in September. On the day in 1901 spoken of 2.31 inches fell in one hour. In one hour yesterday 1.27 inches fell.

YOUNG MEN DRIVE A HORSE TO DEATH

(Special to the Evening Times.)

High Point, N. C., Sept. 24.—A careless bicycle rider here yesterday afternoon came very near getting the life stamped out of him by a horse. The fellow had just come alongside of a Mr. Tomlinson, who, with his wife, was driving up Main street, when his wheel dived under the horse's feet. The animal reared its fore legs and came down on the bicycle, smashing it and missing the boy's head only by a hair's breadth. The fellow finally emerged from his awful predicament, bruised somewhat, but wiser.

Two young men engaged a team from a local liveryman Saturday night and drove to Winston. They returned last night, and in ten minutes after arriving at the stable the horse fell dead from over-driving. The parties got away quick soon after returning the horse, but the officers think they will be located today.

NEW YORK PLAYS POLITICAL STAR

The Fight of Factions Draws All Eyes

HIGH MEN INVOLVED

With Hearst and Jerome Playing for First Place Among Democrats, Higgins and Odell Among Republicans, the President and Tammany in Fight, the Twenty-fifth Looks Warm.

(By the Associated Press.)

New York, Sept. 24.—The determination of both of the old political parties in this state to hold their state convention on the same date this year is in its way indicative of the unprecedented situation the political affairs of this commonwealth. It is a situation which has attracted the interest of the entire country, and is looked to to have an effect upon the presidential campaign of two years hence. The situation involves men of national political repute, and President Roosevelt himself has let his influence diplomatically be felt through ostensibly keeping "hands off."

Three in the Field.

Both republican and democratic parties are torn by factional disputes. With these internal dissensions afflicting the old parties, a third political party has been launched under the title of the Independence League. This league, which now has completed its organization in every county of the state, is the outgrowth of the Municipal Ownership League which made the mayorship fight in New York city last November with William Randolph Hearst, the congressman and newspaper proprietor at the head of the ticket. Mr. Hearst fell short of election on the face of the returns by some 3,000 votes. He contested, but the ballot boxes have never been opened. A petition to the supreme court to burn the ballots was recently made by the corporation counsel. Mr. Hearst resisted this move and was sustained by the court with the understanding that Mr. Hearst would furnish at his own expense the new ballot boxes needed for the local primaries and the regular election in November.

The republican state convention is to be held at Saratoga, beginning Tuesday, September 25th, and will continue probably through Wednesday.

The democratic state convention is to be held at Buffalo, beginning the same day and continuing through Wednesday or until a nomination has been agreed upon.

Former Governor B. B. Odell, Jr., as state chairman, will call the republican assemblage to order. Cord Meyer, of New York, is the chairman of the democratic state committee, having been elected to that position for the Parker and Herrick campaign two years ago.

The democrats were first to choose a convention date. The republicans had apparently been undecided as to whether they should meet before or after the democrats. Chairman Odell called the state committee together soon after the democrats had announced their decision and the gordian knot was cut by a decision to meet simultaneously with the democrats. It was argued that if the democrats met first they would place the republican administration the defensive, whereas if the republicans met first the democrats would be in a position to attack the platform in convention and get a good supply of political ammunition before the public through the medium of convention addresses.

Hearst and Jerome.

The democratic convention promises to be one of the liveliest ever held in this state. Mr. Hearst's name will be placed before it by the delegates who have been instructed to vote for his nomination. Mr. Hearst is likely to be attacked by his opponents on the ground that he is the head of an "outlaw" ticket and that he cannot be named or endorsed without turning the democratic party over to the newly organized Independence League, which includes both democrats and republicans in its membership. These lines of battle have already been laid down, and there is no need for conjecture on the point. Just what effect the naming of a complete ticket by the Independence League will have upon the fusion movement suggested by (Continued on Page Seven.)