

Weather.

Washington, D. C., Dec. 7—Forecast for North Carolina for tonight and Tuesday: Partly cloudy and colder tonight; rain in east portion.

The Evening Times

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REFUSED USE OF THE COURT HOUSE

Janitor Ordered Not to Admit Judge Badger to Court Room

HEARING IS CONTINUED

Police Authorities Feel That They Have Not Been Treated Exactly Right By the County Officials—Hot Tilt Between Attorney Gatling and Judge Badger—Hearing Continued Until Tuesday Morning at 10 O'clock—Trouble Over Who Should Have Copies of Evidence—Madge Earle Discharged.

The clouds shrouding the Smith murder mystery grew darker and storms loomed up upon the distant horizon this morning. As the good ship "Law and Justice" set sails and started on its cruise, it encountered a heavy gale at the court house door. The commander of the ship, his honor, Judge Badger, was met at the entrance of the county court house and notified by the janitor, Mr. Pool, that he had been ordered by Mr. D. T. Johnson, chairman of the Board of County Commissioners, not to admit him (Judge Badger) into the court room.

Judge Badger made no protest, as he had moved the hearing to the court house to accommodate the lawyers in the case and the immense throng of spectators, and not for his own benefit. Judge Badger and the police authorities feel that they have not been treated exactly right at the hands of the county officials, inasmuch as his action in moving to the court house was to accommodate the large crowd, who by the way, are citizens of Wake county as well as of the city of Raleigh.

The large crowd that had gathered at the court house to hear the remaining facts of this deep mystery disclosed immediately moved to the police court.

At 9:20 o'clock Mr. Bart M. Gatling, representing Red Hopkins, arose and stated to the court that he had been assured by Solicitor Jones on Saturday night, after a consultation with Mr. Snow, that the case would be continued until Tuesday morning.

Judge Badger replied in very emphatic terms. "The hearing is not postponed and, furthermore, will not be until I say so."

Mr. Gatling waxed warm and stated that he knew the case would or would not be tried, as Mr. Snow wished.

At this retort Judge Badger speaks very freely. "You represent nobody in this case, Mr. Gatling, and you have no right to open your mouth in the case, whatever."

"Well, I will take the right, sir."

"If you do so, you will certainly get yourself into a bad difficulty."

At this warning Mr. Gatling replied that he represented a man, who, although he was not under an indictment in this case, he was charged with murder by the coroner, and needed the advice of his counsel.

Mr. Walter L. Watson, attorney for Earl Cotton, stated to the court that he was representing one of the defendants in the case before the bar and that he wished to know if the case would be taken up, and if so, when would it begin.

"When Mr. Snow comes in to prosecute the case I will open court, and not until then," said the judge.

Mr. Gatling arose and announced that he had asked Messrs. Hinsdale and Watson to look after his client's interests.

Col. Harris came into the court about this time and stated that he had just had a talk with the solicitor and that he (the solicitor) said Mr. Snow was on his way to the court, but that it had been decided to continue the case until Tuesday.

Judge Badger chafes under the peculiar proceedings, namely: so many people other than he himself trying to run the case. "I do not propose to be run over by the solicitor or anybody else," remarked the judge.

At this juncture Mr. Snow arrived and applied ointment to the wounds by announcing that the state had decided to concede to the request of Mr. Gatling and the attorneys for the defense and allow the case to be continued until Tuesday.

"What right in the world has Mr. Gatling to make a request in this case?" was asked Mr. Snow. "When I not pressed Hopkins' case Saturday morning, that threw him out of court, and I don't think Mr. Gatling has any right to make a motion in

Justice Badger.



Judge Thomas Badger, before whom the Smith murder mystery is being unravelled.

this case at all," continued Judge Badger.

After Mr. Snow arose and stated that the attorneys representing the actual defendants and not the witnesses, requested the continuance, and that he and the solicitor, who would appear with them, had decided to concede to their request, Judge Badger announced that the case would be continued until 10 o'clock Tuesday morning, but "I will not carry it to the court house any more, so as to give the county authorities a chance to oust me."

The waters were then made muddier by a fuss over who should have copies of the evidence. Mr. Weldon Smith, the court stenographer in this case, told the court that he had been ordered by an attorney of the defense not to allow anybody to have a copy of the evidence. Judge Badger immediately explained to Mr. Smith that the law explicitly ordered a copy of the evidence to go with the papers of the case and that a copy was wanted for the solicitor. To this the attorneys for the defense objected and a heated tilt followed.

The last gun of the battle was sounded when Judge Badger stated that he was acting according to the law and was going to see that the case was tried according to the law in every particular.

From all the facts that can be gathered, it seems that the wrong people are trying to conduct this case. As the coroner's hearing has been withheld until after the police hearing, the only case before the bar is under Judge Badger's jurisdiction and the public may rest assured that the case will be conducted according to law and that justice will be meted out.

The police have the key to this most diabolical crime since the infamous Scott Partin murder of his wife, over twenty-five years ago, and Judge Badger is fully capable of conducting the preliminary hearing.

All the clouds of doubt seemed to have been swept away by the startling evidence of Saturday, and nothing but the trial of the case is needed now to place the commission of the heinous crime upon the shoulders of those who should answer for the transgression of the law for which the guilty parties will be punished.

The warrant against Madge Earle has been withdrawn and she is not held as a witness. She was allowed to depart from custody today.

IN HONOR OF JOHN MILTON

(By Leased Wire to The Times)

New York, Dec. 7—No similar event in recent years has more strongly appealed to the enlightened classes of this country than the celebration of the three hundredth anniversary of John Milton's birth, which next Wednesday will be observed simultaneously in London and New York with elaborate ceremonies. With slight variations the programs here and in London will be identical and because of the diversified benefits which Milton, as poet, statesman, and philosopher conferred upon the English-speaking people, all branches of civic and military life are to be represented in the splendid tribute to his memory.

Sudden Death in Sanford.

(Special to The Times)

Sanford, Dec. 7—Miss Hannah Burns, aged 35, of Boston, Mass., who, in company with her sister, came south only a few days ago to spend the winter for the health of Miss Burns, who was suffering from Asthma, died suddenly in her room at the Maness boarding house at 3 o'clock Saturday afternoon of heart failure. The remains were prepared for burial by the Carter Furniture and Coffin Co., and shipped to Boston Saturday night.

WILL RESIGN AFTER INQUEST

Coroner Separk Disgusted With Treatment Accorded Him By City Officials

HEARING POSTPONED

Coroner Separk, in Justice to the Rights of the State, Postpones Indefinitely the Inquest—Only Desires That Justice May Be Done. Not Looking For Honor—Tired of Being Accorded Such Treatment. He Will Resign After This Inquest. Coroner Condemns City Authorities in No Uncertain Terms—Sees Nothing But Trouble in the Future and Will Throw Up His Job.

Those waiting for the coroner to let slip the dogs of war this morning were disappointed when it was announced that his hearing had again been postponed sine die. Coroner Separk arrived at his office this morning determined to see the fight through. He was still belligerent and eager for the fray. Heinous coroners and other "hat reds" were talked of and it looked like trouble for somebody.

A conference between the coroner and some of his friends acted as a solvent, however, and the status of affairs dropped back to normal. The coroner quietly announced that he had decided that "two wrongs would not make one right." He censured the police in no uncertain terms. In the matter of the lurid descriptive phrase "Coroner Separk was not illegitimate. He spread them on thick and heavy, doing impartial justice, in his estimation, to all parties concerned."

His chief reason for postponing the inquest, he said, was that justice might be done to the state. He desired, above all things, that the rights of the state be protected and that the interests of the people be served. He gave up his own rights in the matter, postponing the inquest indefinitely. He said that he felt that he would be doing wrong to go farther with the matter at this stage of the affair. He declared that the police were doing wrong, but that their wrong-doing was no justification for wrong-doing on his part.

A cloud of witnesses assembled this morning for the hearing. There were over thirty on hand. They were told to go home and there await another call.

Coroner Separk deeply regrets the conflict that has arisen in this case. He is disgusted with the treatment he has received in this case and does not look for harmony in the future. He declared this morning that he would tender his resignation just as soon as he has completed the inquest in this case.

Universities Conference.

(By Leased Wire to The Times.)

Ithaca, N. Y., Dec. 7—Arrangements have now been practically completed for the tenth annual conference of the Association of American Universities which will be held at Cornell University January 7 and 8, 1909.

COUNTERFEITER SENT TO ATLANTA

(By Leased Wire to The Times)

Washington, D. C., Dec. 7—William McQuire, Buffalo counterfeiter, was locked up at the sixth precinct station last night for safe-keeping, while waiting for train connections to carry him and officials to the Atlanta penitentiary, where he will serve a three year term for flooding the city of Buffalo with spurious money.

McQuire is making the trip from Buffalo to Atlanta in care of Marshal Conkila, of Buffalo, who regards the counterfeiter as one of the cleverest criminals in the country. "With the arrest and convictions of McQuire and two of his companions," said Conkila, "the secret service has broken up the most dangerous band of counterfeiters in the United States. Their plan for making bad money was on a farm a mile out of Buffalo, complete in every detail, and showed it had been established by brainy men, who knew what they were doing."

McQuire's companions pleaded guilty when arrested and received a sentence of one year. McQuire, who is one of the most stubborn prisoners it has been my experience to handle, fought the case and got three years. He says getting money from persons and not working for it is an easy thing, and claims the world is full of "easy marks."

BUSINESS MEN NOW IN SESSION

Southern Commercial Congress Met This Morning at New Willard Hotel

2,000 MEN PRESENT

Room is Appropriately Decorated and in Ante-rooms Are Maps, Pictures, and Charts, Showing Resources of South—Program to be Carried Out Entirely—Thousands of Pamphlets Have Been Printed, Giving Information Regarding the Commercial Progress and Position of the South. Fifteen States Represented.

(By Leased Wire to The Times.)

Washington, Dec. 7—When Secretary Straus, of the department of commerce and labor, called to order the first session of the Southern Commercial Congress, in the New Willard this morning, there began perhaps, the largest convention ever held in this country devoted to commercial publicity.

During the morning, afternoon, and evening of yesterday delegates were pouring in from the business organizations of the south. Fifteen states are represented, with delegates from 52 commercial bodies. It is estimated 2,000 men are present.

The meetings are being held in the large ball-room on the tenth floor of the New Willard, the walls of which have been decorated with American flags.

In the large ante-room off the auditorium, the committee has arranged maps, pictures, and charts, showing the immense natural resources of the south, with proper explanations showing just how detailed information may be obtained about these resources. The committee of arrangements was assured yesterday that the program would be carried out in its entirety and that every speaker and demonstrator mentioned would be present.

At the end of the room is hung a large map, furnished by General Pinchot, displaying the forest areas of the United States and presenting graphically the argument of the south in favor of the passage of the Appalachian bill, which comes before congress on Wednesday.

Other charts and maps portray the improvements in the southern rural mail service and the advantages of Dixie land in coal, cotton, agricultural, stock-raising, water powers, and minerals.

Thousands of pamphlets have been printed giving information regarding the commercial progress and position of the south. Exhibits have also been placed in the room by delegations from Savannah, Ga.; Nashville, Tenn.; Augusta, Ga.; Jacksonville, Fla.; and Montgomery, Ala.

Every effort has been made to keep politics out of the deliberations of the congress, which is to be a conference of business men.

The principal object of the congress is to establish a "community-of-interest" system in developing southern resources and organizing southern men. Every state south of Mason and Dixon's line is represented.

Large delegations from Albany, Savannah, Atlanta, Columbus, Augusta, Macon, Ga.; Chattanooga, Nashville, Tenn.; Montgomery, Ala.; New Orleans, and Jacksonville, arrived here yesterday.

Among the arrivals are Governor Hoke Smith, of Georgia, who has taken a suite of rooms, to be used as Georgia headquarters, and at which open-house will be kept; John M. Parker, of Louisiana, the prominent cotton man, who entertained President Roosevelt on his Louisiana bear hunts; J. M. Smith, of St. Louis, and Judge George Hillyer, of Atlanta. In all, representatives from 52 commercial bodies in 15 southern states have arrived, and others will arrive today.

The committee of arrangements, composed of G. Grosvenor Dawe, of Montgomery; John A. Beltman, of Albany; John A. Patten, of Chattanooga; W. G. Cooper, of Atlanta; E. L. Quarles, of Petersburg; H. H. Richardson, of Jacksonville; E. S. Shannon, of Nashville, and J. E. Smith, of St. Louis, met yesterday afternoon and elected E. Shannon, of Nashville, sergeant-at-arms; E. S. Johnson, of Augusta, assistant sergeant-at-arms; John A. Beltman, of Albany, floor secretary, and E. S. Quarles, assistant floor secretary, and H. H. Richardson, assistant secretary.

CONGRESS IS NOW IN SESSION

The Second Session of the 60th Congress Convened at Noon Today

GETTING IN SHAPE

Congressmen Have Been Arriving in Washington for the Last Two Weeks and Many More Reached Washington This Morning—Nothing But Routine Business Transacted Today—The President's Message Will be Submitted Tomorrow. Extra Session Will Meet March 15.

(By Leased Wire to The Times)

Washington, Dec. 7—The second session of the sixtieth congress convened at noon today and will end March 4. This will be followed by an extra session to be called for March 15 by the incoming president.

Congressmen have been arriving in Washington during the last two weeks, and many of them reached the capital this morning.

Today's session will bring forth nothing of especial interest.

The actual business in the senate and house of representatives will be the calling of the roll and the transaction of routine business. A committee will be appointed to call on the president and notify him that congress has assembled and is ready to receive any communication he may wish to send. Two new members will be sworn in in the senate. They are Cummins, of Iowa, and Page, of Vermont. The senate will then adjourn out of respect to the late Senator Allison.

Seven new members of the house, chosen to fill unexpired terms, will be sworn in.

The president's message will be sent to congress Tuesday and will be read in both houses on that day.

While congress is not expected to enact much legislation of a general character at the coming session, political observers look to a lively winter.

On March 4 a new federal administration will succeed the old, and whether they are right about it or not, party leaders are expecting a good many changes in federal offices under President Taft.

For this reason the republican leaders want to be near headquarters. Washington is not far from Augusta, Ga., where Mr. Taft will remain, with the exception of brief intervals, for most of the winter season.

As the leaders in the senate and house outline the legislative program there will be few important enactments, aside from the appropriation bills.

Representative Champ Clark, newly elected leader of the house democrats, has announced that few, if any, changes are likely to occur this winter in the committee assignments of democratic members.

BIG BASE BALL MEETING TODAY

(By SAM CRANE)

New York, Dec. 7—Baseball's last merry-so-round of the year begins today in this city, and much news of importance should result as the outcome of the many and diversified meetings. The magnates of the National League are scheduled to have a preliminary session this afternoon, and will convene at the Waldorf-Astoria, with President Harry Pulliam as the one who has broken down the "dead line" again for the time being. This will be a magnate's meeting, but not a meeting of the magnates; that is, the latter will not be able to get into the limelight to any large extent. The board of directors of the National League had their little session in Cincinnati last fall and the little session made much baseball history that was far-reaching and a whole lot convincing to those who accepted their decision on the disputed game. And it can be said that the great majority of fans outside of Manhattan gulped the decision down and have forgotten it. We are trying to do the same thing here, so I will do little to revive the horrid details. The majority of fans and baseball supporters the country over have accepted the decision as just and fair. New York

EXIT JOHNSON, ENTER BREWER

W. C. Brewer Elected Chairman Board of County Commissioners

CHOSEN AT A CAUCUS

New Board Re-organizes and Elects W. C. Brewer to Succeed D. T. Johnson as Chairman—Johnson Reads Written Statement Defending Himself and His Career as Chairman For the Past Two Years. Bart M. Gatling Unanimously Re-elected County Attorney—Other Routine Business Before the Board.

At the reorganization of the Board of County Commissioners at noon today, Mr. W. C. Brewer, of Wake Forest, was elected chairman to succeed Mr. D. T. Johnson.

The commissioners met at 12 o'clock and after transacting all unfinished business, were sworn in by Clerk of the Court W. M. Russ. Mr. Johnson, the chairman of the old board, announced that the first business of the new board would be to elect a chairman. Mr. D. B. Harrison nominated Mr. W. C. Brewer. The chairman called for other nominations, but none were forthcoming. Realizing that he was slated for defeat, Mr. Johnson arose and stated that as it was a delicate matter for a man to defend himself, he wished to submit a written statement defending himself and his career as chairman of the old board. Mr. Johnson's statement was as follows:

Raleigh, N. C., Dec. 7, 1908. Gentlemen of the board: Before you cast your votes for chairman, I desire to say a few words personal to myself. I am aware of the fact that a majority of this board have recently held a caucus in the office of the attorney of the board and have agreed to select another person chairman as my successor. This course, if carried out, will be so unjust and humiliating to me, I would be untrue to you, the people who elected me, my personal friends and myself, should I fail to make known to you and the public my feelings in this matter.

Having for the past two years served this board as chairman, during which time I attempted to discharge my duties in accordance with law and the dictates of my conscience, with a due regard for the rights of the citizens of my county, which, I believe, were for the most part satisfactory, because you and many of my friends solicited and encouraged me to become a candidate for re-nomination and election, which I and my friends understood would result in my being re-elected chairman of this board. This position, I claim, I am entitled to, not only for this reason, but because, having received the largest number of votes in the primary cast for any member of this board, I claim the prestige which such vote entitles me to; and, because precedent established for several years by former boards in selecting the chairman from the city of Raleigh, who is at all times accessible to county officers and citizens from various sections of the county, entitles me to said position; and because a failure to re-elect me chairman is equivalent to a repudiation on your part of my former course, which I deny you have a right to do. In view of the approval of my record by the people, as expressed at the ballot box and on account of each of you having received the benefit of my personal influence in aid of your nominations and election, and for the further reason, such course, on your part, will, in my opinion, tend to create and encourage rather than lessen the already too much dissension in our party in this county.

I do not claim to be infallible, but I do think I am entitled to be considered sincere and honest in my convictions and conduct, and for this reason alone, merit, in my opinion, re-election. With the foregoing statement I respectfully ask to be excused from voting in the selection of a chairman.

Respectfully, D. T. JOHNSON.

There being no reply to Mr. Johnson's statement, the hat was passed by the clerk, Maj. J. J. Bernard, and the ballots collected. The result of the election was: Brewer, three votes; Harrison, one, Mr. Johnson not voting.

After proclaiming Mr. Brewer elected chairman Mr. Johnson arose and expressed himself as hoping that (Continued on Second Page.)

SMALL ACREAGE IN WINTER WHEAT

(By Leased Wire to The Times)

Washington, Dec. 7—The newly seeded area of winter wheat is estimated at 5.9 per cent. less than the revised estimated area shown in the fall of 1907, equivalent to a decrease of 1,762,000 acres, and indicating a total of 28,849,000 acres. The condition of winter wheat on December 1, 1907, was 94.1 as compared with 91.4 on December 1, 1906, and 10 year average of 92.2.

The newly seeded area of rye is estimated as being 4.9 per cent. less than the area in the fall of 1907—equivalent to a decrease of 30,000 acres, and indicating a total of 1,933,000 acres. The condition of rye on December 1, 1907, was 87.8, as compared with 91.4 on December 1, 1906, and a ten year average of 95.6.

FOUND DEAD.

A Negro Killed by Train Near Murray.

John Black, a negro, was found dead on the Eastern Carolina Railroad tracks near Murray Saturday night. It is learned from passengers on the Norfolk and Southern train from Washington this morning that he had been drinking and had probably gone to sleep on the tracks. His body was cut in two.