

New Bern Weekly Journal.

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THE DAY CASE.

Supreme Court's Decision That Day Is Superintendent.

Judge Montgomery Writes the Opinion. Reception of First Regiment of Foot Guards Varied at State Farm.

RALPH, April 12.—The arrangements for receiving the Raleigh company of the First North Carolina Regiment of Volunteers are complete. The company will most probably arrive from Savannah about April 25. There will be a public reception at the city hall and a barbecue at the park.

Democratic State Chairman F. M. Simmons, who conducted so ably the campaign of 1898, will deliver an address at Atlanta April 29 before the Young Men's Democratic Club. He is a stirring speaker.

It is no secret that Governor Russell desires to go to Washington, D. C., and that he does not intend to again live at Wilmington. The plan is, if it can be carried out, to have James E. Boyd made judge and then promote to his place the second assistant, giving the latter's place to Russell. But it appears that there is a hitch, for it is said this was what the Governor went to Washington about last week, and that he was disappointed. It is learned that after the Governor went to New York to see a former law partner in regard to any opening there. The two publicans are bitter toward Russell and say their next convention will blacklist him.

It is learned from a penitentiary official that varrioloid has made its appearance at the Northampton convict farm on the Lenoir river. All the State convicts have been vaccinated.

The Supreme Court has filed an opinion in the case of State of North Carolina vs. W. H. Day, Justice Montgomery wrote the opinion, which reverses the decision of the Superior Court and declares Day entitled to the office of superintendent of the penitentiary.

The opinion says the object was simply to have a decision as to who is entitled to the custody of the State's prison and convicts therein. The question is, was the office of superintendent abolished by the act of 1897? The court says it had no trouble in arriving at the conclusion that the office of superintendent is not an office created by the constitution. There is a contract existing between the State and the defendant Day as to his office, and it cannot be violated during his term. The State, through the Legislature might be said to be the management under the executive board created by the directors, under the act of 1899 is a better plan and a safer one for the public, yet that is only a matter of method of management. The choice between two modes (that is, whether it is better for three to control than one) is such a choice that cannot be made until the defendant's term has expired. The State's prison is substantially the same institution it was before the act of 1897. The purposes for which it was established are the same now as then, and the duties performed by the superintendent are substantially the same as those transferred to the board of directors and now being performed by the executive committee. No new duties have been imposed and no new powers granted, except that to lease or sell lands, which does not alter the nature or character of the institution. No function or duty which was formerly performed by or imposed upon the superintendent is abolished. The functions and duties of that office are still necessary to the public welfare. They have not been abolished; they have been simply transferred to others. That cannot be done according to the law of the land. The contract of the State with the superintendent must be kept.

It is not valid argument to contend that the executive board can conduct the State's prison in better and more satisfactory manner than can one man. You cannot out the incumbent of his office and continue the office afterwards, and this rule applies to offices created by the constitution, as well as those created by the Legislature. It is not necessary for the appointment and nomination of the defendant Day to have been confirmed by the Senate. There was a vacancy due to the resignation of Newburn. The Governor makes nominations to fill vacancies in offices. He does that alone in all cases. The defendant Day is entitled to the possession of the property of the State's prison, to the control of convicts, as under the law of 1897, and to the right to execute the duties of the office of superintendent.

Justice Farches writes a concurring opinion, saying that it is to be paid for argument that Day's position was a public office; that this is not denied and that he had property in this office which could not be transferred to another or other; that this is the law of North Carolina, and that this court has so held in every

case involving this question. It was so held down in the great case of Hoke vs. Henderson, held ever since 1835 to be the leading case of this subject and styled by Chief Justice Pearson "the Great Case of Learning." Judge Farches then says: "I do not expect to enter into discussion of politics that might influence me if I were acting as the Legislature, nor do I expect to count the number of lawyers in the Legislature which passed this act, nor do I expect to impugn their motives, as it seems to be thought I will if I am not of the opinion that the act is unconstitutional. This kind of argument should have no weight with an independent judiciary; this suggestion is true, it convicts every judge who has ever occupied a seat on this court of being guilty of impugning the motives of the Legislature—Taylor, Henderson, Ruffin, Pearson and all their associates. If this were so, I suppose there would never be another Legislature set up by the people." This court constituted now, as then, declared the act of 1897, which attempted to take charge of the insane asylums, unconstitutional. I must now hold as I did then.

"REPULSED WITH HEAVY LOSS."

General Otis Wins Battles of the Philippine Attack North of Manila.

VASHINGTON, April 11.—The following dispatch has been received from General Otis:

MANILA, April 11. Adjutant General, Washington.

Inaugurated attached MacArthur's line of railway communication last night in considerable force; repulsed by Wheaton with heavy loss. Wheaton's casualties, three killed, twenty wounded. Otis.

This dispatch gives additional information concerning the fight at Santa Cruz:

MANILA, April 11. Adjutant General, Washington.

Lawton's success at Santa Cruz more complete than reported yesterday. Enemy killed three and wounded one. Lawton captured city without destruction of property. His loss, ten wounded, slight, except two, one killed. Lieutenant Elliot, only officer wounded; slight in hand. Enemy retired eastward; Lawton in pursuit this morning.

The attack of the natives upon the railway north of Manila indicates to the War Department officials that while General MacArthur was pushing northward bodies of Filipinos took to the mountains and jungles on the right of the railway and have been watching for an opportunity to capture the road at some point and thus cut off the main body of the army to the northward. The reports of the natives shows that they had not sufficient force to accomplish their purpose.

Weekly Crop Bulletin.

The Weekly Crop Bulletin for week ending Monday, April 10, 1899, is as follows:

The opening of the crop season of 1899 in North Carolina has been extremely unfavorable. The winter was severe; the remarkable freeze on February 14th broke all previous records for cold weather in the State, and since then the rainfall has been so excessive that the soil has been continuously soaked. Roads have been almost impassable, and very little farm work could be accomplished. The season averages from two to four weeks late everywhere, with practically no preparations yet made for the main crops—corn, cotton, and tobacco.

The reports of crop correspondents for the week ending Monday, April 10th, are unanimously unfavorable. The weather has been cold, wet and gloomy. The week opened with a snowstorm on Tuesday, averaging from 2 to 6 inches in depth and breaking all previous records for April. On Friday a general and heavy rainfall occurred, bringing the average precipitation for the week to over 3.00 inches. Following the snowstorm the temperature fell to below freezing in the central and western portions of the State, with frost as far as Southport. Frosts also occurred on the 9th and 10th as far south as Wilmington. The average temperature for the week was over 10 degrees below the normal.

On account of the very wet condition of the soil very little plowing could be done. An insignificant amount of corn was planted, and the delay in the preparation of cotton land will contribute to limit the acreage to be planted. Gardens have hardly been touched, but a good many Irish potatoes have been planted, a few sweet potatoes laded, and some melons put in. Tobacco plants are small and growing slowly; preparations indicate a large crop of tobacco. Winter wheat and oats are generally thin and small, having been badly winter killed, but east of the Blue Ridge the plants look healthy. Winter oats are in the worst condition. Much loss of grain on lowlands resulted from frequent freshets in the mountainous sections. Sowing of spring oats has been delayed until it is almost too late. His lands are still under water.

Track crops are growing slowly and shipments can hardly be said to have begun. Frost cut down peas and unprotected Irish potatoes, but the greatest loss results from retarded growth. The reports of damage to strawberries are very diversified, but considering that many acres of vines were covered and the number of blossoms was still small the percentage of actual loss will not be great. The prospect for other fruit is not encouraging; fruit trees and grape vines were seriously cut back by the February frozen peaches especially show very limited bloom.

THE STATE CAPITAL.

Dr. Abbott Feels Sure in His Case. Other Suits of Interest.

RALPH, April 12.—Dr. D. H. Abbott says "My attorneys advise me that the Day decision practically settles my case and gives me my place. I feel absolutely confident of winning." The Attorney General gave Dr. Abbott leave to institute quo warranto proceedings to try the title to the office of corporation commissioner, now held by E. C. Beddingfield. The Attorney General spoke of it as "railroad commissioner," then added, "The Legislature has the right to change the name if it so wishes. There is no doubt about that."

The Attorney General is doing quite a "land office" business. He has granted leave to bring suit in several other cases. One of them is that of M. B. Williamson against John R. Erwin, for the clerkship of the Criminal Court of Mecklenburg. Another case is that of the widow of James A. Bryan against D. W. Patrick, to try the right to the control of the Atlantic and North Carolina Railroad, its franchises and property.

Another is from Pamlico, where all the county officials are to try title. The last one to come in is Benjamin F. McCotter, who wants the office of treasurer from Henry W. Cowell.

The Supreme Court has given vitality to the doctrine as laid down in Hoke against Henderson; and Judge Clark's dissenting opinion is an outcry and protest against this doctrine. It is said that North Carolina is the only State in which it is law.

Governor Russell, while in Washington, worked hard to defeat Ewart. That was in the line of the plan to have Boyd made judge, Boyd's assistant promoted to his place and, Russell put in as assistant. It is learned from high authority that Russell, while in Washington, "put in poison." He did some damage to Ewart, and there is no doubt but that Ewart would have been appointed last week, but for what Russell did. North Carolinians do not care whether the Governor goes to Washington or to New York.

CHASING FILIPINOS.

General Wheaton Started to Drive Them Back, But They Fled. Lawton Captures the Filipino Fleet.

MANILA, April 12.—General Wheaton started at daylight with the Tenth Pennsylvania and the Second Oregon Regiments and two guns to drive the natives from the American right flank, between the railroad and the foothills.

He met slight resistance near Santa Maria and had one man wounded. But the natives bolted when shelled by the artillery and burned and abandoned the town of Santa Maria, where a thousand of them were reported to have been concentrated.

During the rest of the day the natives were in full retreat toward the mountains, burning the villages behind them. Occasionally a few of them dropped to the rear and fired at the advancing American troops from the jungle, apparently with the idea that this would check the advance and cover the retreat of the Filipinos. But finding these tactics ineffectual, they scrambled after the main body.

The American guard along the railroad was being materially strengthened and it is not likely that the natives will succeed in getting in the future to as close quarters as they reached yesterday, even if they return from the mountains.

General Wheaton has telegraphed from the field to General Otis, saying: "They would not wait to be killed." General Lawton is scouring the vicinity of Santa Cruz. He finds the natives have decamped. The General has captured a gunboat, six launches and two caecoes, comprising the Filipino fleet in Laguna de Bay. These vessels were stuck in the mud of the river. General Otis has sent a dredge to the spot.

Lake City Lynching Case.

CHARLESTON, S. C., April 12.—Two of the government's most important witnesses testified in the Lake City lynching case today. They were J. P. Newham, one of the men who turned State's evidence, and M. W. Springs, who swears that one of the defendants asked him to join the mob that killed Postmaster Baker, Newham is a white man, and says he cannot read or write. He used to live in Lake City, but since he turned State's evidence he has been provided for in Washington.

On the stand Newham swore that he met Stokes, Epps, Webster, Alonzo and Rodgers, who are among the defendants, and others at Stokes' store. Stokes he said, planned the lynching, proposing to set fire to the postoffice and kill Baker when he came out. It was agreed to do this Monday night. At that time the men named, with McNight, Ward and others, went to the place.

He and Early P. Lee, Newham said, set fire to the house, while the others hid in the bushes and fired into the place.

Newham was rigidly cross-questioned but stuck to his original story.

Newham declared that he did not see Kelly, Rogers and Clark in the mob that killed Baker.

Springs said Stokes tried to get him to go with the mob to kill Baker, but he refused to do so. Springs was being cross-examined when court adjourned on account of the illness of Juror Murphy.

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ABSOLUTELY PURE

Makes the food more delicious and wholesome

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AMBUSCADE.

Americans and British Caught by Samoans. Seven Men Killed. Grave Apprehension Over Future Results.

WASHINGTON, April 12.—The situation in Samoa has suddenly become more critical.

Advices received yesterday state that an American and British force was ambushed by Matafa's rebels April 1 near Apia, the Samoan capital, and defeated. Four Americans and three men of the British force were killed and five Americans and one Briton were wounded.

The news was sent from Apia by steamer to Auckland, New Zealand, where it arrived yesterday and was cable.

The Americans killed were all of the cruiser Philadelphia.

Five men from the Philadelphia and Seaman Hunt of the British cruiser Porpoise were wounded.

The ambuscade, according to the dispatches, occurred on a German plantation. The manager of the plantation was arrested and detained on the British cruiser Tauranga. Athlavis were made declaring that he was seen urging rebels to fight.

Samoans say that Matafa, the rebel leader, was willing to surrender, but that Herr Rose, the German consul, advised him not to do so.

Further trouble of an extremely critical nature is feared in Samoa. There are also new possibilities of international complications involving the United States and Great Britain, which support Matafa, the reigning Samoan King, and the Germans, who support Matafa.

Grave apprehension is felt in Washington. Congressman Hull, of Iowa, said: "If Germany persists in her present course there may be war." He also said that the people of the West believe Germany was hostile to the United States in the Spanish war. Other members of Congress expressed pacific views.

Excitement in Berlin and London was caused by the news from Apia. The German government, it is understood, holds that it is not to blame, but British foreign officials regard the course of Herr Rose, the German consul, as one of the leading causes of the latest outbreak.

Final action in sending to Samoa the commission which will deal with the situation is understood to be still delayed by the British government, as it desires to instruct its commissioner by mail instead of by cable.

The view is held in German circles in Washington that much of the delay in settling the Samoan troubles, as well as the grave aspect the troubles have assumed, is due to a desire on the part of Great Britain to bring about an armed alliance with the United States.

THE SPECULATIVE MARKETS.

Today's quotations furnished by W. L. Galbraith, New York, Represented by A. O. Newberry.

New York, April 13.

STOCKS.

Open.	High.	Low.	Close.
Sugar.....	106	109	160 160 1/2
C. R. & Q.....	142 1/2	142 1/2	141 1/2 141 1/2
M. O. P.....	51 1/2	52 1/2	51 1/2 51 1/2
Manhattan.....	118 1/2	126	118 1/2 124 1/2

COTTON.

Open.	High.	Low.	Close.
August.....	5.90	5.90	5.81 5.82

CHICAGO MARKETS.

WHEAT—Open. High. Low. Close.

May.....	72 1/2	74 1/2	72 1/2 74 1/2
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REDUCTION TO THE "TRADE."

Brotherly Feeling of a House Painter or For an Artist Patron.

There is a saying that two of a trade can never agree, but there is reason to believe that there is more fraternity of interest than is generally supposed. An instance to prove this theory is found in the case of an artist in the suburbs who had the front of his cottage painted last week. It wasn't much of a job, but it was done very well, and the painter was told to bring in his bill.

Three days later the man of the house was told that the painter wanted to see him.

"Tell him to leave the bill and I'll send him a check," was the impatient answer.

He was informed that the painter wanted to see him in person, so there was nothing to do but to show him up.

"Well," said the man of the house rather shortly.

"I hope you like the job," said the painter with a mysterious smile.

He was informed that it appeared to be all right.

"I always do good work," said the painter virtuously. "But this house—boss, I rather throw myself on you when I found out who you was."

"So you found out who I was, did you?"

"Yes. When I went to the drug store at the corner for putty, the clerk told me you was a painter and one of the best in this country. I asked why you didn't paint your house, then, and he said you had got your hand out now and didn't paint anything but pictures. So when I found you was in the trade I did my prettiest. And here is the bill—\$18.00—and it ain't no more than right, as you know, but being it's you I'll knock off the 60 cents."

To the everlasting credit of the sole untraded artist he said that he kept his face straight and accepted the reduction in the spirit in which it was offered.—Exchange.

Philadelphia Apprentices.

There are places in this city where the old time system of apprenticeship is still in vogue. Employees of the Mercantile Library are subject to it. When a boy applies for a position at the library and is accepted, he is compelled to sign articles binding him to faithful service for a term of years. He receives a stated salary weekly, and at the end of his term of service he also receives in a lump sum \$2 for every week he has been in the library's service. However, there are very few in the mercantile library who stay out the full time. It is optional with the management to dismiss an unsatisfactory boy at any time, and as a result not many of them reach the stage where they can receive the benefit of the accumulated sum.—Philadelphia Record.

Got on the Blind Side of Him.

"I am informed by my bailiff," said the rural justice, "that this case, which I've been settling on for ten days come Sunday, has been appealed to the supreme court—after I had done settled the whole thing in my mind. This is the only case I have ever had appealed to the supreme court, and it is a remarkable thing of the state, but the miserable jack leg of a lawyer that appealed it done so whilst I was asleep on the back piazza, and then took a train an got out 'fore I could get a lick at him. Only for that I had not and him there a jolly!"—Atlanta Constitution.

Mother's Friend

is a liniment for expectant mothers to use externally. It softens the muscles and causes them to expand without discomfort. It is used during most of the period of pregnancy there will be no morning sickness, no rising breasts, no headache. When baby is born there will be little pain, no danger, and labor will be short and easy. \$1 a bottle at druggists.

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Wind up! He won't wind up. His finish will occur when he's run down.

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Comforting.

She—My face is my fortune.

He—Well, poverty is no disgrace.

Vacant.

The haunted house stands only a ghost of a chance of being rented.

The Reason.

Men advise women not because they are women, but because they are not men.

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of only 16 for a good farm fence; 16 for poultry fence; 16 for a rabbit-proof fence and 16 for a hog fence. We will sell you plain, coiled spring or barb wire direct at wholesale prices. Get our catalogue before buying.

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Nearly everybody you meet will regard it as a kind of insult to be asked if they have weak lungs. All seem to have a solid faith in the soundness of their own breathing machine. In cases of trouble they will admit there is a "heavy cold," "a touch of bronchitis," or even "a spell of asthma," but as to weak or unsound lungs, never, NEVER. Even the poor consumptive, who scarcely speaks without coughing, whose cheeks are wasted, hollow and bear the hectic flush of doom, will assure you with glistering eyes that his cold is on the mend and he will be all right when the weather changes.

It is simply terrible to think how far we may be guilty by our indifference to the lung troubles of those near and dear to us. It is also a sad thought that we may hug a delusion as to our own health that we only get rid of when life itself must pay the forfeit.

Nobody can afford to think lightly of lung troubles. Nobody can afford to be mistaken about their possible danger. Nobody can afford to neglect them, or "let them wear out," or "get better in the spring," or any other foolery that leads only to wreck and ruin. Lung troubles don't move backward. Weak lungs don't grow strong by themselves—you must heal them and strengthen them, and rid them of the very earliest germs of disease, or you are simply committing a form of suicide. Either you must cure your lung troubles or THEY WILL KILL YOU. That's the whole situation in a nutshell.

Never was there a cure for lung troubles equal to the newly-discovered Dr. Slocum treatment. This forms a system of Four Remedies that are used simultaneously and supplement each other's curative action. It cures weak lungs, bronchitis, asthma, coughs, consumption and every other ailment of the pulmonary region. It destroys every germ that can affect the respiratory system, and even in advanced stages of lung trouble positively arrests the tubercular growth, while it also builds up the patient so that his system is enabled to throw off scrofula, rheumatism, catarrh, and other wasting diseases.

Thousands of cured cases already prove these claims. Thousands of grateful people bless the discovery.

The Doctor wants everybody to know the surprising merits of his system. He has arranged to give a free treatment (Four Preparations) to all sufferers. Full instructions for use accompany each treatment.

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Write at once to Dr. T. A. Slocum, Laboratories, 65 and 68 Pine Street, New York City, giving full express and postoffice address, and mention this paper.

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