

The Herald and News.

VOLUME LIII, NUMBER 42

NEWBERRY, S. C., FRIDAY, JUNE 25, 1915.

TWICE A WEEK, \$1.50 A YEAR.

CURRENT COMMENT ON MATTERS OF INTEREST

VARIOUS VIEWS GATHERED FROM THE STATE PRESS

Charleston Situation in the Lighthouse—Testing Right of Existence of Tax Commission.

(By John K. Aull)

Special to The Herald and News.

Columbia, June 24.—The press of the State generally is commenting on the failure of the Charleston grand jury to return true bills in the liquor cases, and various solutions are being offered and suggestions made.

The Newberry Observer asks if there isn't a way to move the cases to another county. The Observer has overlooked the proviso which was inserted in the constitution of 1895, to the effect "that no change of venue shall be granted in criminal cases until after a true bill has been found by the grand jury." There was no such provision in the constitution of 1868, which was superseded by the constitution of 1895. It has been felt since the constitution was adopted that this provision was secured to prevent the very thing which the Observer suggests—the indictment of Charleston blind tigers by the grand jury of another county. So it will be seen that two years after the dispensary law went into effect there was the determination in Charleston that it should not be enforced there, and the call of the constitutional convention itself was invaded in this behalf.

The conservative Yorkville Enquirer recalls the action of the Newberry grand jury in the Felder case, and hits the nail squarely on the head when it says:

Similar to Newberry Cases.

"After all, the action of the Charleston grand jury in the liquor cases is not very different from that of the Newberry grand jury in the Felder case. There should have been true bills in both instances."

In the course of another editorial on "Liquor in Charleston" the Enquirer says: "It is a fact that notwithstanding all the efforts that have been made to curtail the illegal liquor traffic in Charleston, that traffic goes on just the same and virtually without interference. It is true, as Mayor Grace reported to Governor Manning not long ago, that the Charleston hotel and two or three other places cut-out bars; but it is not at all certain that the owners of these bars ceased business elsewhere. On the contrary there is no good reason for believing otherwise than that such places as were closed were closed as a kind of joking recognition of the governor's orders. The Enquirer has it from people who have been there and who know of their own knowledge, that the liquor sellers of Charleston, as a whole, have never even made any show of quitting. . . . As matters stand in Charleston now, a grand jury is more apt to present the governor for interfering with the liquor sellers than it is to present the liquor sellers for plying their vocation, and that is about all there is to it. If there is any way to break up the liquor business in Charleston, except by putting the city under martial law, we do not know it, and as long as the issue remains one of trying to prevent the people from conducting a business which the State claims the right to conduct, we have not got a great deal of confidence in the efficacy of martial law."

The Enquirer is a prohibition paper, and vigorously espoused the cause of Mr. Featherstone in the campaign in 1910.

The Injunction Process.

The Abbeville Medium suggests the injunction process, if necessary. While the people of the State will agree with the Medium that it is important that the liquor law in Charleston should be enforced, if they will give the matter the thought which it deserves they must conclude that the right of trial by jury is more sacred in the United States than the enforcement of a liquor law in Charleston. It may be urged by some in an excitement which is dangerous, that the liquor sellers of Charleston are so grossly violating the law that any means should be resorted to; but it must be taken into

consideration that once the injunction process is applied generally in the enforcement of one law, there is the ever present danger that its use may spread, and whatever tends to undermine the right of trial by jury tends to undermine the bed-rock of American liberty. As matter of fact, the injunction process was resorted to when J. Fraser Lyon was attorney general, but it did not force the Charleston tigers out of business, and set a dangerous precedent.

It is highly interesting to read the various and varied comment and suggestions which are offered.

The Negro Vote.

In this correspondence in the last issue of The Herald and News, the report that negro preachers were urging the members of their congregations to register and vote for prohibition in the coming election, was called attention to, as was also the danger of any appeal to the negro vote by either side.

Since that time the Columbia Record has called attention to the following, published in one of the negro papers of this State, which bears out what was stated in The Herald and News: "Let us have that FLYING SQUADRON to arouse the colored voters to their duty in opposing the liquor traffic in the coming election. PROHIBITION is what we need here in this State. REGISTER! REGISTER! REGISTER! and be ready when the time comes."

The Record, while not advocating prohibition, saying that real prohibition would be an economic asset, but that pseudo prohibition would lower the citizenship of the State, advises the negroes to let the matter alone. "We think that the colored people would do well not to worry about this question," it says. "It will be settled as they wish—if they wish prohibition, and they need not lose time from their crops or their work to bother with registration."

Tax Commission Tested.

Among the grounds urged against the constitutionality of the act of the last legislature creating the State tax commission is the fact, called attention to at the time, that through a legislative error the senate amendments to the house bill though adopted by the free conference committee after the house had refused to concur and the matter went to free conference, were not embodied in the act as signed by Governor Manning. It will be recalled that the State hospital act did not carry a title, through an error. This question as to the State hospital act, however, has not been raised. The power of the tax commission and its very existence are being contested by the banks, which have filed a protest on a number of grounds against the action of the commission. The matter will in all probability be threshed out in the supreme court, and in conjunction with the question raised by the railroads, will probably carry the right of existence of the tax commission, as now constituted, to the supreme court of the United States, in case the State courts sustain the commission. The railroads made legal tender in currency of the amount of taxes assessed against them, figured on intrastate business, which the State treasurer refused to accept as falling far short of the amount due on the total business on which the tax was placed.

The senate amendment to the tax commission bill, which was left out of the bill signed by the governor, provided for a board of review, to be composed of seven members, one from each congressional district.

To Supply Prosperity Chrage.

Rev. O. J. Davis who so successfully served as pastor of Prosperity and Cannon's Creek churches, and resigned two years ago to take a special course at Princeton seminary and is now pastor of a very flourishing A. R. P. congregation in Mississippi will spend his vacation of one month laboring in his old charge in South Carolina. Rev. Davis will arrive at Prosperity next Saturday, June 26th. He will preach at Prosperity A. R. P. church Sabbath at 11 o'clock a. m. and at Cannon Creek mission at 3:30. Mr. Davis has only been in the ministry for three years but is one of the most aggressive ministers in the A. R. P. church. The public is cordially invited to the services.

NEWS OF PROSPERITY

Death of Mrs. Annie Conwill—The Comings and Goings of Many People.

Special to The Herald and News.

Prosperity, June 24.—Rev. O. S. Davis, former pastor of the A. R. P. church but now of Cotton Plant, Miss., arrives Saturday to visit his many friends.

Miss Isoline Wiche is in Columbia the guest of Miss Kate Thompson.

Misses Annie Fellers, Rosa Mae Mitchell, Cairo Wyche, Katie Mae Nance and Mrs. Alma Nance are visiting Mr. and Mrs. J. A. Dominick in Kinards. Mrs. H. P. Wicker spent the weekend with Mrs. Anderson in the St. Lukes section.

Mr. Godfrey Harmon has returned from Atlanta.

Mrs. J. F. Browne and Little Misses Rebecca Harmon and Elizabeth Browne are spending awhile in Columbia with Mrs. A. H. Kohn.

Mrs. Kenneth Baker and daughter, Miss Mary of Greenwood are visiting Mrs. E. W. Werts.

Mrs. J. B. Bedenbaugh has returned to Pomaria after spending a few days with her parents.

Mrs. J. B. Stockman spent Monday in Columbia.

Miss Ethel Counts has returned from an extended visit to Rock Hill, Darlington, Marion and Columbia.

Mrs. Spence and daughter, Miss Spence of Newberry are visiting Mr. Sam Spence.

Mr. Abner Dominick and daughter, Mrs. Stockman of Greenwood spent Wednesday with Mr. T. A. Dominick. Mrs. E. V. Taylor has as her guest Mrs. F. T. Cantrell of Spartanburg.

The Literary Sorosis meets Friday afternoon with Mrs. G. Y. Hunter.

Mrs. Annie Conwill wife of the late Drayton Conwill, died at her home in the St. Luke's community June 23. She was a consistent member of St. Lukes church the funeral service being conducted by her pastor Rev. B. W. Cronk Thursday morning.

Mrs. Conwill is survived by two children, Mrs. W. P. Leopardt, and Mr. A. M. Conwill, three grand children, and one sister, Mrs. Harriet Boozer.

NEWS OF ST. PAUL

Miss Jessie Singley and Mr. Haskell Compton Married—Personal and Otherwise.

Special to The Herald and News.

St. Paul, June 24.—Our pastor, the Rev. V. von A. Riser, will preach to the Luther League in St. Pauls on the first Sunday night, July 4. It is by special request of the young folks that he will do so. Everybody is invited to the service.

Rev. M. C. Riser visited his brother at the parsonage recently and filled the pulpit at St. Paul last Sunday in the absence of his brother who was away attending and conducting the funeral of Mr. J. R. Lominick at St. Phillips.

Our pastor preached to the people of Cannon Creek A. R. P. church last Sunday afternoon. He was very much impressed with the people of Cannon Creek and will probably preach for them again soon.

Mr. M. H. Folk and son, Hayne alter worshipping at St. Paul Sunday morning dined with and spent the remainder of the day with Mr. W. P. Counts and family.

Miss Leola Bedenbaugh has gone to Columbia to spend awhile with relatives.

Messrs. John Derrick and Hal Shealy of Leesville spent the weekend with Mr. Berley Bedenbaugh and attended service at St. Paul on Sunday.

Mrs. John A. Summer of near St. Johns and her daughter, Rosalyn, spent some time with Mrs. Riser at the parsonage recently.

Dr. L. D. Stone of near Newberry spent Sunday in this section.

Prof. E. O. Counts and family of Prosperity spent Sunday with the family of Mr. W. B. Boinest.

Mr. Boinest is making his rounds threshing. We all understand when we see him placing his machinery down it means that your work will be done right.

We also notice that Mr. J. A. C. Kibler and Mr. Ney Werts have purchased a threshing and a gasoline engine and are up and doing good work. Mr. P. H. Kinard is confined to his

room with fever and is nursing a very bad abscess on his arm.

The people in and around here have about won the victory in the battle that was waged between the farmers and the grass. Cotton is looking very well in most places but corn, especially old corn, as viewed by the writer is the worst we have seen in years.

We are sorry to note that so many of our people have no potatoes this year. The seed rotted and those who ordered the plants have not been able to secure them. Some people ordered plants sending the money along with the order and have heard nothing from the plants or the money. There should be a law to protect our farmers from the potato plant sharks. It seems to take the money in the early spring and then not send the plants and for these sharks to continue to advertise and write that the sprouts are not yet ready but will ship soon but never ship. If writer was a member of the legislature he would try to pass a law to protect our farmers against such robbery.

On Sunday, June 6, Mr. Haskell Compton and Miss Jessie Singley drove to the St. Paul parsonage where they were made man and wife. The bride is a daughter of Mr. John Singley and the groom a son of Mr. W. C. Compton. Both are well known and have a host of friends who wish them mighty well. They will set up house keeping near Mr. C. W. Compton's.

NEWS OF POMARIA

Barbecue to be Given on July 3 by School Improvement Association—Personal.

Special to The Herald and News.

Pomaria, June 24.—Rev. M. C. Riser preached here Sunday in the Methodist church in the absence of the pastor, the Rev. D. P. Boyd, who was away conducting the funeral services of Mr. Belton Wicker.

There will be preaching here next Sunday evening in the Lutheran church at 8:30 o'clock by the pastor, the Rev. S. C. Ballentine. All visitors welcome to these services.

The W. O. W. Ashe Grove camp of Pomaria will meet at the Jacobs graveyard Saturday afternoon for the purpose of unveiling the monument to the late John J. Jacobs. The public is invited to attend.

We want to say that the writer was absent last week when the Pomaria letter was sent to the press, and that we notice the statement that Walter Richardson was made happy by having a seat to and from commencement in a Ford car. We understand that the information was furnished by (Box). We would like to say that what our friend (Box) saw was an extra seat attached to the Harley-Davidson. We suppose the mistake is due to the fact that (Box) is expected to make a sudden change in life soon, and does not give his time to observing closely small matters like this.

Everything is being placed in readiness for the annual barbecue to be given by the ladies of the School Improvement association on Saturday, July 3. Everything will be done to make this one of the best ones of the season. Come and spend a pleasant day, eat a good dinner, see an interesting game between Pomaria and Hunter-DeWalt and last and best help a good cause. The last game between these teams was on the Pomaria diamond and Hunter-DeWalt won by a score of 20 to 12. The Hunter-DeWalt boys have a record of winning six out of nine games in which they were engaged. This is the first year for this team and we congratulate them on their success.

Mr. W. S. Seybt tells us that he has discovered how to make Irish potatoes bear when they fail to do as much bearing as they ought. Cut a few inches of the top out and they will bear. The writer had the pleasure of seeing one of Mr. Seybt's potato stalks after this had been done and counted 23 potatoes to one stalk.

Mr. A. H. Shealy is preparing the foundation to rebuild his ginney in which he will place new and up to date gins and be prepared to give the people the very best of service at the opening of the season.

Mr. W. S. Seybt is planning to erect on the Jim Miller lot at an early date an up to date grist mill to be run by gasoline. We are glad to see this as it will probably induce the farmers to raise more corn.

POWERS GRANTED MAGISTRATES

Attorney General Peoples Renders Decision in Answer to Letter From Magistrate Player.

Columbia Record, 23rd.

"According to an opinion of Thomas H. Peoples, attorney general, a magistrate has no authority to either suspend or reduce sentence of a convicted person, and he further states that there is a doubt in his mind 'as to whether or not a magistrate has any right whatsoever to grant a new trial in criminal cases tried before him.'" The opinion was in answer to a letter from Magistrate L. M. Player of Newberry.

The following are excerpts from the opinion:

"In reply thereto I will say that I can find no statute giving a magistrate power to suspend a sentence. By the act of 1912, page 773, the circuit judges are empowered to suspend sentence in certain cases, but this does not apply to magistrates.

"Further answering your letter, I will say that in my opinion a magistrate has no power to reduce a sentence that is imposed by him. Such power is only vested in the governor, as will be noted by reference to section 988 of the criminal code of 1912.

"As to your right to reopen the case or grant a new trial on after-discovered evidence, I will say that at this time you clearly have no right or authority to do so; in fact, there is doubt in my mind as to whether or not a magistrate has any right whatsoever to grant a new trial in criminal cases tried before him. There is nothing in the criminal code giving a magistrate such right. The right of appeal is allowed and by section 99 of the criminal code circuit courts are empowered to grant new trials in certain criminal cases, but this section does not apply to magistrates.

"The only authority by which magistrates would have to grant a new trial is contained in sub-divisions 17 and 18 of section 97 of the code of civil procedure. These sections empower magistrates to grant new trials for reasons for which new trials have been usually granted in the courts of law in this State; but, at the same time provide that no motion for a new trial shall be heard unless made within five days after the rendering of the judgment.

"If we take it for granted that the sections of the law just quoted apply to criminal cases, a magistrate would have no power or authority to grant a new trial on after-discovered evidence, or any reason whatsoever, after the expiration of the five days. This question has been clearly and definitely decided by an opinion of the South Carolina supreme court, rendered by Mr. Justice McIver in the case of Sams vs. Hoover, 33 S. C., 401, in which the court said that the procedure sought in that case could not have availed the defendant anything as the time limited for making a motion for a new trial before the trial justice upon any ground had already expired. The power of a trial justice to grant a new trial for any cause being derived solely from the statute which limits the time within which such power may be exercised, we do not see how any court could disregard such limitation. This may be very unfortunate, as the alleged new evidence may not be discovered until after the expiration of the time prescribed by statute within which a motion for new trial before a trial justice may be made. It may be a *causa omnis*, but this court has neither the authority nor the disposition to undertake to supply omissions in a statute, whether supposed or real."

"As indicated further along in the same opinion, a different rule applies in the circuit courts where there is no time limit within which a motion for a new trial may be made. In the case of magistrates' courts though the motion must be made within the time prescribed by the statute.

"In my opinion you had no right in the case under consideration to suspend sentence, reduce the sentence or to grant a new trial."

Miss Lois Eleazer of Newberry is on a visit to relatives in Chapin and Spring Hill.—Lexington Dispatch.

LEMBERG OCCUPIED BY TEUTON FORCES

GERMANS TO TRANSFER LARGE FORCES TO FIGHT IN WEST

Emperors Will Grace Ceremonies to be Held "to Mark End of Russian Dominance."

London, June 23.—The Russians have lost Lemberg to the Austro-German armies. After occupying the Galician capital early in September they held it until Tuesday, when the Teutonic forces compelled them to retreat from the city, which is only sixty-odd miles due west from the nearest point of the Russian frontier.

Whether the fall of Lemberg means that the Russian army operating south of it in Southeast Galicia is effectively cut off from the army to the north, stretching across Poland to the Baltic, cannot yet be said. Vienna and Berlin newspapers say this is the case and that the Russian arms have received a blow from which they cannot recover.

If the stroke proves as crushing as the Teutons predict, its effect, military observers here say, soon should be felt in the transfer of vast German forces to the west, where for days they have been hard pressed by the French.

Up to 10:30 tonight Petrograd had not conceded the fall of Lemberg. Previous dispatches from the Russian capital, however, related details of what purported to be the systematic withdrawal of the Russians from the town and should these details prove correct it is believed in military circles here that when the count is taken of the Austro-German booty, it will not be large, for as was the case at Przemysl, the Russians are said to have worked hard to move everything of military value.

Praise for Russians.

Telegrams from Vienna concerning the capture of Lemberg and recounting the celebration of the populace in Vienna over the victory added that the Austrian correspondents with the Teutonic armies pay tribute to the magnificent rear guard action fought by the Russians, who are declared to have retreated eastward in good order, leaving behind few prisoners and even removing the Russian documents from the city, which, since the Russians occupied it, has been called by them Lvov.

One telegram from Vienna says Emperor William and Emperor Francis Joseph purpose to meet soon in the recaptured Galician capital for "fitting ceremonies to mark the end of Russia's dominance of Galicia."

The news of the fall of Lemberg was known on the Continent yesterday, but it did not reach London until late today. Then bulletins arrived almost simultaneously by wireless from Berlin and Vienna by way of Amsterdam. The British press had been expecting such a development and there was no more than passing comment on it, though it drove home, according to military observers, the fact how ample must have been the Austro-German ammunition supply to accomplish the feat.

Berlin and Vienna are reported joyful over the victory of their forces. Archduke Frederick, of Austria, commander-in-chief of the Austrian forces, and Gen. August von Mackensen of the German army, both have been made field marshals of the Prussian army in recognition of their services in the Galician campaign.

On the River Dniester, south of Lemberg, the battle still is raging.

Delightful Entertainment

Mr. and Mrs. J. A. Dominick entertained a number of friends Wednesday evening, June 23, from 8:30 to 11 o'clock at their lovely home at Kinards in honor of their four neices, Misses Caro Wyche, Katie Mae Nance, Rosa Mae Mitchell and Annie Fellers. The feature of the evening was progressive conversation and music.

Mrs. Nance, sister of Mrs. Dominick met the guests at the door. Miss Eva Oxner of Kinards introduced the guests to honored guests. A delicious ice course was served on the beautiful lawn by Misses Annie Spence and Eva Counts. Every one enjoyed the evening immensely.