

The Messenger.

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WILMINGTON, N. C.

TUESDAY, SEPTEMBER 10, 1907

TAKEN FOR GRANTED

There is one peculiar feature of this railroad passenger rate contest now being waged in this state which, so far as we are aware, has not been alluded to in a single newspaper in this state. That is the assumption by all those who have taken sides against the right of the railroad to bring its original suit in the federal court that the state supreme court would, as a matter of course, decide the criminal case on appeal from Wake superior court in favor of the state and against the defendant, the Southern railroad.

That is the case in which the Southern was indicted in the state court for having refused to obey an order the federal court made, covering the subject matter on which the indictment was based, in a suit pending in that court before the institution of the criminal action in the state court.

Our readers remember that after the federal court had enjoined the putting into effect of the new rates the Southern was indicted in the state court in Wake county, convicted and fined thirty thousand dollars. The defendant has appealed to the state supreme court on the ground that it was not liable to indictment pending the final decision on the constitutionality of the act establishing the lower rate.

That is a question of law to be decided by the supreme court. The anti-railroad faction, however, has never looked upon it as such. It has taken it as a foregone conclusion that the state supreme court would decide this abstruse legal question in favor of the state simply because it was—as some maintain—a conflict between state and federal courts, and, of course, the state court would decide in favor of the state.

Those who look for such a decision as a matter of course, lose sight entirely of the fact that the state supreme court is a judicial body, which passes upon the law as its members understand it to be, but they seem to think that, in this case at least, that court will "stand by the state against federal usurpation" and declare in favor of the state, no matter what the law in the case may be. We do not hold to that opinion. We believe that court will decide the case according to the opinion of a majority of its members as to what the law is in the case without regard to which side shall gain and which side shall lose by its decision.

The contention among certain persons who have been prominent on the state's side in this case that the action should have been brought in the state court, because they thought the state supreme court would, as a matter of course, decide against the railroad, is far from complimentary to that court and is a grave insinuation against the integrity and honor of its members. It is an insinuation that, law or no law for it, the judges of that court would decide in favor of the state. They expect those judges of the highest court in the state to fling aside the law and decide the case from a partisan standpoint.

There is strong prejudice, the public has a right to believe, on the part of one member of that court against the Southern railroad which has existed for years, but no one who honors the court believes he will let his personal spite rule him in determining the law in a case subject to his decision.

BRINGS HONOR TO HIS STATE

We are glad to see the unanimity with which the newspapers of the state, with a few exceptions, applaud and endorse the complementary re-

marks on Senator Overman made by Senator McEnery. They take it for granted that there will be no serious opposition to his re-election by the next legislature. There will be some opposition, of course, but we believe that by the time the legislature meets there will be such a general demand for his re-election that the opposition will not have the face to make a stand against him, he is growing so rapidly in favor with the people of the state. Of the many favorable press comments on the McEnery interview we give the following from the Fayetteville Observer:

That was a fine tribute to Senator Overman which we reprinted the other day from the Cleveland Star. No man has grown more than he since he became a senator four years ago. Veteran Senator McEnery justly regards him as already in the very front rank of the state. Besides his acknowledged ability and remarkable resourcefulness, which he employs with consummate skill in his state's behalf, he is such a clean man and through all such a gentleman!

He has brought great honor to his state, and we imagine that a grateful constituency will see to it that he shall long continue to adorn the place now filled by him.

FORFEITURE OF CITIZENSHIP

A dispatch states that Richard Croker is no longer a citizen of the United States; that he has forfeited his naturalization rights by the fact that he has resided in Great Britain for two years. An act of congress which went into effect last March, provides that a naturalized American citizen, who resides two years in the country from which he came or five years in any other country, shall lose his citizenship. The question is, would such a law have a retroactive effect and deprive a naturalized citizen of his rights already acquired before that law was passed because he had resided out of the country for two years at a time prior to the passage of the act? It strikes us that a man's right of citizenship by naturalization already acquired could not be taken from him because of certain conduct prior to the passage of an act of congress making that conduct cause for canceling his naturalization. Would not that be in violation of that provision of the federal constitution prohibiting the passage of ex post facto laws? Surely congress did not intend that act to cut off from citizenship such naturalized citizens as had, prior to the passage of the act, lived in their native country for two years or in some other country for the space of five years—to take away a man's already acquired citizenship for an act which was no cause for such forfeiture at the time it was done but was afterward made cause for such forfeiture.

THE PARCELS POST

Postmaster General Meyer seems determined on establishing a parcels post "which will not interfere with the express companies." Mr. Wanamaker, when postmaster general, tried to accomplish that feat but was unsuccessful. The express companies defeated his scheme. We hope they will be as successful in their fight against Mr. Meyer. His plan is for the postoffice to handle ten-pound packages, but he is willing to reduce the weight to five pounds if that is necessary to secure the success of his undertaking. The parcels post will chiefly benefit the big department stores and mail-order houses in the large cities, and that to the great detriment of the merchants in the smaller cities, the towns and in the county. It will cause greater centralization of trade and the destruction of local markets. It will work to the still greater building up of trade at commercial centers to the injury of the local markets. If it is for the good of the country that most of the retail trade from every section should be transferred to three or four cities and to a few stores in each of them, then the system will be beneficial; otherwise it will be injurious to the country.

Speaker Cannon, who was never yet known to desire democratic victory, is predicting a democratic victory in 1908. Of course he does not make the prediction in express terms, but here is the way he puts it.

"If congress does not act wisely at the next session; if it is not actuated by candor and patriotism; if it makes great mistakes and fails to meet the approval of the reasoning American public, there will not be much need for the election of delegates to the next national convention of the republican party."

This is tantamount to a prediction of a democratic victory.—News and Observer.

Of course Mr. Cannon does not desire democratic victory, nor does he anticipate it in 1908. "If congress does not act wisely," means if congress does not again elect him speaker of the house and put the control of legislation into his hands. In other

words Mr. Cannon threatens the republican party with direful calamity if it interrupts his management and absolute control of all congressional legislation.

Senator Bailey is talking too much. No southern man has any business saying in a public speech that "the Texas negro can be made as good as a Massachusetts white man, but he cannot be made as good as a Texas white man". If that really was Mr. Bailey's belief what was the use or the sense of giving expression to it in a public speech? What a howl there would be from the south and what an outburst of protest against Yankee prejudice against the south if a Massachusetts senator were to make the same declaration in a public speech, with the states reversed.

The republicans of the state have nipped one aspiration of ex-Senator Butler, having placed State Chairman Adams between Butler and the president. In affairs relating to the republican party in this state, Butler will not be able to reach the president except over the shoulders of Adams. The latter is boss and dictator.—Charlotte Chronicle.

We are not sure that The Chronicle is correct. Were any other man president but Mr. Roosevelt we would agree with that paper; but the president is too much like the Irishman's flea for one to count on the certainty of Butler being choked off by the action of the republican state committee. As apt as not the ex-senator will have the ear of the president to greater extent than every before; or it may be that he will be made to understand that the president will abide by the action of the committee. No one can with certainty predict one day what he will do the next.

The Salisbury Post announces, on what is considered good authority, that Mr. Frank Linney, son of ex-Congressman Linney, will be the republican candidate for congress in the Eighth district as Mr. Hackett's opponent. We do not suppose the republicans of that district will care to be represented in congress by a man who opposes the establishment by the government of the great Appalachian reservation. The senior Mr. Linney has been stumping the district in opposition to the measure, so we take it for granted that his son, if elected for congress, would furnish his mite toward defeating the measure. However, it does not make any difference what are his views on that or any other subject; he will not have the opportunity of airing them in the house of representatives of the Sixty-first congress, as Mr. Hackett will be sure to represent the Eighth district in that body. It would be a great pity for this state to send to congress a man who is opposed to the establishment of the reservation.

THE CZAR IN HIS CAPITAL

On Sunday last the czar of Russia entered his capital for the first time in nearly three years. His last visit there was on that fearful "Red Sunday"—January 22, 1905, when so many of his subjects were butchered in the streets while on their way to the royal palace to humbly present a petition to their emperor for the correction of the many grievances they suffered at the hand of the nobility and the government officials.

One may well believe that the czar's entry on Sunday was no triumphal one. There were no shouts of welcome from assembled populace. Houses all along the route were closed and the occupants were not even allowed to appear at their windows to see the monarch go by. Troops were massed along the line to prevent the assassination of the czar or some of his official household; still the entry was pronounced a complete success, because "no untoward incident occurred."

The czar's visit to the city was in order to attend the consecration of a church built to the memory of his grandfather, Czar Alexander II, erected on the spot on which he was assassinated by nihilists in 1881.

Czar Nicholas fully appreciates the truth of the saying: "Uneasy lies the head that wears the crown."

ELECTIVE FEDERAL SUPREME COURT JUDGES.

The News and Observer says that plank in the democratic platform which declares: "We favor such amendments to the constitution of the United States as will provide for the election of district and circuit judges of the United States and of the United States senators by direct vote of the people and a graduated income tax" is all right so far as it goes. That paper says the only objection to

it is that it does not include the justices of the federal supreme court; "for," it says "they ought to be elective too."

God forbid that change should ever be made in the constitution. It would be a bad day for the nation on which the members of that court were made to depend upon the schemings of party convention managers for securing nomination as candidates and upon the votes of members of political parties for election to the bench for a short term of years. Besides the objection to having the members of this court of last resort in any way dependent on the will of the people through political preferences, the personnel of such a court should be kept the same as far as it is possible to do so. Frequent changes of judges would have a tendency to unsettle the law, through the danger of one set of judges overruling the previous set. The decisions of that court are the law finally settled. There is no reversing them except by the court itself. That court has at times overruled former decisions made by it, but these have been very rare cases. It is a rule, follows one straight and undeviating line in construing the statutes of the United States and those of the states when a federal question is involved in the case. Frequent change of judges would be liable to unsettle the line of decisions followed by the court and would tend to lessen the confidence the people now have in the court. There should be no possibility of a condition existing which would allow a judge of that court or his friends to scheme or plan for the retention of his position by re-nomination and re-election.

CAPE FEAR RIVER IMPROVEMENTS.

The Fayetteville Observer, of Monday, contained a letter from Congressman Godwin to Mr. F. R. Rose, secretary of the Fayetteville chamber of commerce, in reference to matters in which the people of Fayetteville are interested. One of the subjects is of great interest to Wilmingtonians, also—the proposed deepening of the Cape Fear river both below and above this city. On this subject Mr. Godwin writes to Mr. Rose:

Referring to the matter of the Cape Fear river, I desire to assure you that this subject will receive my earnest support and careful attention. I consider this one of the most important projects before the people of the district. I am very anxious to secure sufficient appropriation from the next congress to complete the construction of the locks and dams; this will make Fayetteville a great distributing point. If we can secure a deep channel from Wilmington a port of entry, we will then be able to compare Wilmington to Norfolk and Charleston, and Fayetteville will be as great a distributing point as Richmond or Atlanta.

We are glad to know that Mr. Godwin is so much in earnest about the deep water channel from our city to the sea and the establishment of locks on the river between this city and Fayetteville. We feel sure he will persevere until he secures sufficient appropriations for both these important works.

As he says, with the proposed improvement on the upper Cape Fear, Fayetteville will be made a great distributing point. There is no estimating the increase of traffic with inland territory that city will secure. No scheme could be devised which would be of greater benefit to her; and the benefit would not stop there; it would extend to a large area of surrounding country—into many counties. Its results would be far-reaching.

Then if Mr. Godwin can succeed in securing the undertaking of giving Wilmington a thirty-foot channel to the sea our port will in a short while be second to none on the South Atlantic seaboard. This would help Fayetteville also, for it would add to the importance of her deep waterway to our city.

Mr. Godwin is energetic in his endeavors to secure the river improvements; but, because he is the congressman, he must not be expected to do all the work and to do it alone. He must have the encouragement and the help of the people of his district, especially of the commercial bodies in the cities. There is much they can do in his aid. If they lose interest in the matter and become disheartened they will throw a damper on Mr. Godwin and hamper him in his efforts. If he cannot show the government departments and the congress that the people who are to be benefited are sufficiently interested in the same to exert themselves to secure its consummation he will not be able to secure the appropriation of the millions of dollars necessary to make the improvements.

REVOLT IN ARGENTINA

A Buenos Ayres dispatch says that news of serious unrest in the province of Corrientes has reached that city. Armed bands have appeared on the frontier and a revolution is declared to be imminent.

Corrientes is a province of Argentina, in the central-eastern section, lying west of Brazil. Its population in 1890 was 220,000. It lies not very far north of the caudal of the republic. Argentina is one of the most progressive and prosperous of the South American countries. Her people are not given to revolts and revolutions as are those of most of the Central and South American countries. They are much more peaceable and far more industrious. That republic has a large foreign trade her chief exports being wheat, hides and cattle. She is quite a rival of the United States in supplying the wheat markets of Europe. A great many Germans have settled in that country, and they have imparted much of their thrift to the natives. Next to Brazil and Mexico Argentina is the most advanced of all the Latin-American nations. We are surprised to hear that the spirit of revolution has broken out there. It is something new for that republic.

NEWS FROM THE CAPITAL

Negro Brought to Raleigh to Avert Possible Lynching—Recruit for Penitentiary—Reward for Murderer—Charter Granted.

Messenger Bureau

Raleigh, Sept. 4.

Last night Robert Upchurch the negro who is charged with felonious assault upon a white woman near Louisville, was brought here and placed in jail for safe keeping. A special term of court is to try him at Louisville, September 22, but there were some hints of lynching and in order to be on the safe side the sheriff brought him here so he can be kept until the trial.

A charter is granted the Mid-Way Telephone Company, headquarters at Winston-Salem, capital stock \$25,000. C. E. Snider and others are the stockholders.

Sheriff Smith, of Caldwell, brought to the penitentiary today John Bristol, white, to serve two years for incest. It seems that there was some doubt as to his guilt, his wife having a grudge, it is intimated against the daughter and there being some other reasons for a light sentence.

Governor Glenn offers a reward of \$100 for Ransom Godwin, a white man, who murdered his wife in Johnston county recently.

The carnival which was here in the month of July is to be here again under the auspices of the Macabees.

This afternoon the funeral was held of Mrs. A. J. Bynum who was a daughter of the late Co. A. W. Shaffer, of Raleigh. She died of appendicitis in a hospital in Sumpter S. C., her home being in Timmonsville.

Calls for money for the high schools from the state appropriation of \$45,000 come in daily and all has been apportioned except about \$5,000. This will no doubt be allowed before the fiscal year ends.

A report having come to State Veterinarian Tait Butler there was a case of glanders in horses at Wilson, he has gone there to investigate.

Deputy Marshal J. B. Jordan, who was shot in the night battle between two squads or revenue officers in Chatham county last week, has been taken to his home at Cary. Posseman John Banks who was also shot is doing very well at the hospital here and it is not thought will not lose his leg the bone of which is considerably shattered however.

SERIOUS OPERATION DONE

Leg of Twelve Year Old Girl Taken Off at Knee for Tuberculosis.

Miss Tessie Cates, twelve year old daughter of Allison Cates, of Orange county, underwent a serious operation a day or two ago. In this operation it was found to be necessary to amputate the left leg of the little girl, this being just below the knee. She was suffering from tuberculosis of the bone.

Before the operation was done an X-ray photograph of the limb was taken. This showed that the bone was badly diseased. Then it was decided that the operation was necessary. The patient is now getting along nicely.

This is a peculiarly sad case. The family of the little girl is an extremely poor one. So poor, in fact, that it will be impossible for the family to get an artificial limb. Unless this can be done the little girl will be in bad shape for the remainder of her life, if, in fact, it does not cost her life. With an artificial limb it will enable the little girl to get plenty of exercise and at the same time put her in shape to earn a living in the future.—Furham Herald.

There is getting to be an awful lot of agnosticism in the world. It is now said that wearing a cabbage leaf in the hat will not prevent sunstroke. They'll be claiming next that spitting on the Balt does not make the fish bite.—Exchange.

FIGHTING HUGHES

Roosevelt Preparing to Snow New York's Governor Under as a Presidential Candidate.

As a result of the attack on Governor Hughes by Senator Platt, characterizing the governor as a political tyrant and declaring that he cannot control the delegates to the next republican national convention and claiming that Fairbanks is the logical ideal candidate and a statement from Washington that President Roosevelt has decided to recognize Cortelyou as the state leader, the republican party is badly split.

A number of personal friends of the governor here today are requesting him to declare himself a candidate in a speech at Buffalo Thursday.

He will not do so but may touch on national issues then.—Albany Dispatch.

CHAS. D. MELVER JR., HURT

Struck While on the Train by Telegraph Pole and Painfully Hurt.

News was received in the city yesterday of an accident which befell Chas. D. Mclver, son of the late Dr. Mclver, at Spray last Saturday afternoon which came dangerously near resulting seriously. Young Mclver who is staying at Draper, a small town near Spray, went up to Spray Saturday afternoon on business and when he started to go home saw his train pulling out so it was necessary for him to run to catch it. As the train glided by he swung the last coach but before he could get off the steps and while he was hanging on his head struck a telegraph pole which was planted very near the track and he was knocked off the train on the ground in an unconscious condition. The services of a physician were at once called in and it was something like a half hour before he completely regained consciousness. Upon examination it was found that he had an ugly scalp wound on the back of his head but it was not thought that his skull was fractured. At last report he was getting along nicely.—Greensboro Telegram.

Johnson for President.

There is something more than suggestion in the name of Governor Johnson for Minnesota. He is a democratic governor of a state which gives a normal majority of 70,000 to the republican ticket.

At the election last year he had 69,000 majority. He is of Swedish origin, brainy, self poised, thoroughly honest and terribly earnest as to reform of every department of public service.

He is not radical in any use of the term.

He was elected because the people of Minnesota had confidence in his ability, integrity and will power.

Johnson would be less antagonized by the corporation element than Bryan; therefore it would be well to keep in mind that there is another than the great commoner who could lead the democratic party to victory. Our choice is Bryan. We believe him the greatest American, but if there is too much objection, then Johnson.—Hastings (Mich.) Journal.

Charges and Counter Charges

At Washington last week the railroad attorneys in the North Carolina rate case were charging the state's attorneys with obstructing the hearing and delaying the case, and the supreme court at Raleigh the state's attorneys were making the same charges against the railroad. Both may be right or both may be wrong. The public doesn't know. It only wishes that both would bring the matter to a conclusion.—Charlotte Observer.

Salisbury's Proposed Bond Issue

A bond election has been called to be held on October 1st in Salisbury for the purpose of authorizing an issue of \$200,000 of five per cent. municipal improvement bonds. It is proposed to use the proceeds of the issue for street, water and sewer improvements during the next three years.—Concord Times.

Mr. R. A. Doughton, of Sparta, who has been prominently mentioned as a probable candidate for the democratic nomination for governor next year has decided not to enter the contest. He has so decided may prove wise, but there will be many strong friends and political admirers throughout the state who will regret his decision. Mr. Doughton would have made a splendid governor.—Concord Tribune.

We wonder what the capital of high finance will think when they see the latest utterances of the attorney general on the subject of imprisonment and the probable effect of such imprisonment.—Raleigh Times.

Uncle Billy Waring, of New Jersey, who says that he can forecast the weather by the curl or the lack of it in the tails of his hogs, may expect a brief, pointed communication from the white house shortly.—Buffalo Times.

Don't worry about Elihu Root, after months and months and months of strenuous cabinet meetings Wendell Muldoon's place is a true rest cure for him.—Brooklyn Eagle.

Other rich men are said to be distrustful of Harriman's ability as a financier. Still nothing that has gotten away from Mr. Harriman has been seen loose.—Cincinnati Enquirer.