

The Cheraw Chronicle

"Tis Not in Mortals to Command Success, but We'll do More, Sempronious, We'll Deserve it."

Volume 15

CHERAW, CHESTERFIELD COUNTY, S. C., SEPTEMBER, 17, 1911

Number 46

SEABOARD WINS CROSSING FIGHT

COURT DISMISSED PETITION

Contention Over Track at Front Street in Cheraw Ended Monday.

Holding that the constitutional right given railroads to cross another railroad does not give the right to railroads to cross at grade, and stressing the importance of public safety, the supreme court yesterday dismissed the petition of the Atlantic Coast Line railway asking that the railroad commission be forced to consider and approve plans for an interlocking switch for a grade crossing over the track of the Seaboard Air Line railway in the town of Cheraw. The decision in the case is by Associate Justice Hydrick.

The ruling by the court ends a long controversy between the two railroads which involved the right of the Coast Line to cross the track of the Seaboard at Front street in the town of Cheraw. The controversy was commenced on September 22 of last year. The case came before the supreme court several months ago and a decision was given in the favor of the Seaboard. It was held by the court at that time that the Coast Line did not have the right to cross at Front street.

The first point raised by the petition was as to the constitutional right of railroads to effect such crossings.

"This contention is based on section 6 of article 9 of the constitution," says the decision handed down by Associate Justice Hydrick, "which reads, any railroad organized under the laws of the State shall have the right to intersect with or cross any other railroad, etc. There are several sections of the code which in similar terms give railroads the right to cross each other. But neither the section of the constitution above quoted nor any statute gives one railroad the right, in so many words, to cross another at grade and the right to cross does not necessarily imply the right to cross at grade. On the contrary section 2179 denies that right, except by consent of the commission, and then only in such manner as it shall prescribe, and there is nothing in the provisions of that section in conflict with the section of the constitution above cited.

"The next position taken by the petitioner," says the opinion "is that the order of January 6 is void, first because the order of September 22, being a judgment or quasi-judgment, was final and irrevocable, and second because the order of January 6 was made without giving the petitioner her acquired vested rights, in reliance upon the order of September 22 and it therefore operates to deprive petitioner of its property without due process of law. The fundamental error in this contention is in assuming that the commission ever gave its consent to the crossing." The opinion here goes to show that the former orders did not give the petitioner any absolute right to make the crossing, and that the petitioner's right to proceed was conditioned upon the consent of the commission.

"The legislature has imposed no restrictions upon the commission as to the terms and conditions upon which it will consent to such crossing," continues the opinion. "Therefore it has the power to refuse its

consent altogether, or to grant it upon such terms and conditions as it may see fit. And so long as it acts within the law and a reasonable discretion, it is subject to no control save that of the legislature. The condition upon which the consent of September 22 and December 28 was given was clearly within the law, and the discretion of the commission, and it was a condition precedent and no right could vest or attach under the consent, until the condition had been fully complied with."

"But even if it be assumed that acting in reliance upon those orders," continues the opinion, the petitioner did acquire vested rights, it does not follow that the commission could not withdraw its consent to the crossing. The public safety is paramount to the vested rights of the citizen. The police power can not be bartered away."

After showing that the commission considered the matter carefully before taking the stand it did, the opinion closed as follows:

"The issuance of the writ of mandamus is not a matter of strict legal right, but it rests in the sounds of discretion of the court. Nothing is better settled than that mandamus will not be issued to control the discretion or judgment vested by law in public officers. If the commission had not already considered

is invested by law with the authority to decide the question of fact such cases, and it is a body peculiarly fitted to decide such questions. Therefore, its questions of fact, unless wholly without evidence, is final and conclusive.

"Now in this case the commission has found that the proposed crossing is unsafe, and that no plans can be devised for a grade crossing at Front street which will adequately protect the public. It has also found that a grade crossing may be made at Second street, which will be reasonably safe; and that an overhead crossing at Front street is dangerous and should not be consented to, and that conclusion is not without evidence to support it.

"Even if the court did not concur in the findings of the commission, nevertheless, it has no authority or disposition to substitute its judgment and discretion for that of the commission.

"Wherefore, the petition is dismissed."

To Restore Chairs.

To clean and restore the elasticity of cane bottom chairs, turn the chair and with hot water and a sponge saturate the cane work thoroughly. If the chair is dirty use soap. Afterward set the chair to dry out of doors and the seat will be as taut as when new.

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Cheraw, S. C.

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and rejected the plans proposed by the petitioner, the courts compel their consideration by the commission. Abbeville vs. McMillan, 62 S. C., 60. But it could not direct the result of that consideration, unless the action of the commission with respect to the matter was so clearly arbitrary and capricious as not to admit of two reasonable opinions. Mauldin vs. Mathews, 81 S. C., 414. The commission

A Terrible Slight.

to H. J. Barnum, of Freeville, N. Y., was the fever sore that had plagued his life for years in spite of many remedies he tried. At last he used Bucklen's Arnica Salve and wrote: "It has entirely healed with scarcely a scar left." Heals Burns, Boils, Eczema, Cuts, Bruises, Swellings, Corns and Piles like magic. Only 25c at T. E. Wannamaker & Sons.

KINDLED FIRE TO HIDE CRIME

Firemen Find Charred Body of Boy in Cobbler's Shop in Washington.

Washington, Sept. 10.—Firemen who extinguished a blaze in the cobbler shop of Tom Melano near the government printing office early today found unmistakable evidence that the fire had been to cover up the murder of a victim, afterwards identified as Harry Smith, 24 years old. The firemen pulled the charred and unrecognizable remains of the boy from burning debris which had been soaked with coal oil. Severe blows had been dealt the boy with a heavy instrument, and a blood stained hammer was found nearby. The body was identified by a scarf pin. Melano was arrested at the point of revolver. The witness told the police they saw them fighting in his shop yesterday. One woman said she saw him strike a boy with a hammer. He claimed he loaned his key to an American friend who said he wanted to sleep in the shop last night.

Notices Posted That They Will Begin on October 2 and Will Run on Full Time.

Anderson, Sept. 10.—Notice have been posted at the Riverside and Toxaway cotton mills to the effect that both mills will resume operation on October 2 after having been idle since the first week in May. Both mills will run on full time and all the machinery will be put into operation. Since the machinery became inoperative, the mills were moved away from the mill villages, but a few remain and others are expected. The management does not fear that there will be any scarcity of help. Both mills work a great many persons and bring much business to the city.

No Need to Stop Work.

When your doctor orders you to stop work, it staggers you. "I can't," you say. You know you are weak, run-down and failing in health, day by day, but you must work as long as long as you can stand. What you need is Electric Bitters to give you strength, and vigor to your system, to prevent breakdown and build you up. Don't be weak sickly or ailing when Electric Bitters will benefit you from the first dose. Thousands bless them for their glorious health and strength. Try them. Every bottle is guaranteed to satisfy. Only 50c at T. T. Wannamaker & Sons.

For the Bride.

If you suspect him, then reject him; but if you select him, don't suspect him.—Gay.

CHIEF JUSTICE SENDS RESIGNATION

WILL RUN FOR GOVERNOR

At Least that is What Many of His Friends Predict—Think that Announcement Will Follow

Columbia, Sept. 12.—Ira B. Jones of Lancaster, chief justice of the State supreme court, yesterday telegraphed to U. R. Brooks, clerk of the supreme court, the announcement of his resignation, to take effect January 9, 1912. In many quarters this is taken as a very strong indication that Mr. Jones will announce his candidacy for the governorship in opposition to Gole L. Blease, the incumbent, who has stated that he intends to seek reelection.

Justice Jones' announcement as sent to Geh. Brooks follows:

"Lancaster, Sept. 11, 1911. U. R. Brooks, Clerk, Columbia Resignation to take effect Jan. Mailed governor today. (Signed) "Ira B. Jones."

It had been rumored for some time that Justice Jones might take the field for the governorship.

Mr. Jones has been a member of the supreme court since 1896. He was elected chief justice upon the resignation of Y. J. Pope in 1909. Since that time he has served with no little distinction as head of South Carolina's tribunal of last resort.

Justice Jones is a graduate of Erskine College. He attended Newberry college for two years, but went to Erskine to complete his education. After leaving college, he taught in Newberry and Edgefield counties, at the same time studying law. In 1872 he was admitted to the bar and opened an office in Newberry. He also became assistant editor of the Newberry Herald. In 1875 Mr. Jones moved to Lancaster.

From then on he began to interest himself actively in politics. He was elected to the legislature from Lancaster county and in 1890 was appointed chairman of the ways and means committee of the house. Subsequently he was chosen speaker, serving in that capacity until 1896. In 1886 he was made chairman of the Democratic executive committee of Lancaster county and also of the executive committee for the Fifth congressional district. He was vice president of the constitutional convention of 1895.

He was elected to the supreme court by the legislature in 1896 and became chief justice 13 years later.

In 1875 he married Miss Rebecca H. Wyse of Edgefield county.

CHINESE WARSHIP ARRIVE

For First Time in History Naval Vessel Floating Dragon Visits American Waters.

New York, Sept. 10.—For the first time in history a Chinese naval vessel tonight entered the American waters. The naval visitors from the Orient is the cruiser Hai Chi, with Rear Admiral Ching Pih Kwang on board anchored off the entrance to the harbor late tonight. The warship took part in Spithead naval review in connection with King George's coronation.

The Hai Chi brings a full complement of Chinese officers and 450 seamen, and an elaborate programme of entertainment has been arranged for the visitors by the city, State and nation.

1912 MAXWELL 1912

16 H. P. \$600.00. 25-30 H. P. Roadster \$950.00. 25-30 H. P. Five Passenger Touring Car \$980.00. 36 H. P. Five Passenger Touring Car \$1200.00.

Our first shipment of six cars sold immediately on arrival. Orders are being booked daily by us and our sub-dealers. Indications are now that we will fall far short of filling the orders for 1912. The demand is so great for Maxwell cars that big dealers are buying in solid train loads. One special train is rushing to the American Auto Co., American, Ga., loaded only with Maxwell cars. Write at once for catalogue and place your order. Be one of the first proud owners of a 1912 Maxwell. Ask about the binding guarantee.

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