The Barnwell People.

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DOWN ON THE LAW.

JUDGE GOFF'S VIEW OF OUR ELECTION SYSTEM.

He Holds it Violative of the Federal Constitution, and Therefore Void - The Richland Supervisor Enjoined--Dr. Pope's Motion Dismissed.

COLUMBIA, May 8.—Special: There was a great crowd in the Federal court room this morning—drawn there by the previous announcement that there would be announced the decisions on all the questions brought before the court in the several cases argued before the judges. Every seat was occupied, and all the available standing room was also used. There were quite a number of negroes present—these being, for the most part, of the more intelligent class. The room was well filled some little time before the session of the court opened.

Promptly at 12 o'clock Judges Goff and Simonton entered from their consultation-room in the rear, and ascended to the rostrum where the seats are provided for them. The marshal commanded, "Silence in court!" and he was implicitly obeyed. The audience was all attention.

Judge Goff, with a short reference to the importance of the case to be decided and to the short time which he had had to prepare his opinion, said that he would read his judgment in the case of Mills vs. Green [the Richland Supervisor of Registration], reserving to himself to file additional authorities if he should think proper to do so. The case against Green, it will be remembered, arose out of the complaint on the part of Mills, a colored man, that he had lost his right to vote for delegates to the Constitutional Convention, because he had not had a proper opportunity to register as a voter, and because there would be no adequate opportunity for him so to register at any time before the election of delegates to that convention. He asked that the Supervisor be enjoined from proceeding under the registration law, until the merits of his complaints and charges could be considered and determined by the court.

The Richland Supervisor, through the Attorney General, answered, claiming that the court had no jurisdiction in the premises, and that if it had, it could not grant any injunction on the showing made on behalf of the complainant Mills. The real question in the case, considered by Judge Goff, are these: 1. Has the Circuit Court of the United States jurisdiction to pass upon the matters set forth in the bill of complaint? 2. Is the registration law of South Carolina in violation of the Federal constitution? After a full statement of the case as set forth in the bill and the return of the Supervisor, together with full quotations from the registration law, Judge Goff proceeded:

The question of jurisdiction is first to be determined. Defendant insists that this suit is in effect a proceeding against the State of South Carolina, and that it should not be entertained because prohibited by the Eleventh Amendment to the Constitution of the United States. It is not my intention at this time to consider separately the many cases cited by counsel in argument bearing on this question. After carefully examining them all, I conclude that it is the duty of the Circuit Court of the United States to restrain a State officer from executing an unconstitutional statute of the State, when the execution of it by him would violate or abridge the rights, privileges and immunities of the complainant that are granted by the Constitution of the United States. So far as this question is concerned, it is immaterial if the officer so restrained be the supervisor of registration, the Auditor of the State, the Comptroller General, the Treasurer, the Attorney General or the Governor. We do not have in this country any class of people, State or national officials, or private citizens who are above the law and who are not compelled to respect it. The Constitution of the United States is the supreme law of the land, anything in the Constitution or laws of any State to the contrary notwithstanding. The mandate of the nation's Constitution is addressed to all officers of the United States as well as to all the officers of all the States. The judges of the Federal as well as of the State courts must respect it, for it declares that the judges of every State shall be bound thereby. As is said by the Supreme Court in Dodge vs. Woolsey, 18 How., 331: "To make its supremacy more complete, impressive and practical, that there should be no escape from its operation and that its binding force upon the States and the members of Congress should be unmistakable, it is declared that the Senators and Representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution. It would be a strange admission, a startling decision, that the courts of the United States cannot open their doors to the citizens of the United States who alleges that they are by the unconstitutional laws of a State deprived of their privileges or immunities as citizens of the United States and denied the equal protection of the laws within the jurisdiction of such State. I am not aware that any court of the United States has ever so held, I trust I will never be advised of such a decision, and I am sure as I now see the law and my duty, that I will not so rule, not establish such a precedent.

The case of in re Ayers, 123 U. S., 443, relied on by defendant's counsel does not in my judgment sustain the position taken by them. In that case the jurisdiction of the Circuit Court was denied, not because the officers of the State were sued, but because the court found that the act of the Legislature complained of did not violate any contract, and because the bill did not allege any ground of equitable relief against the individual defendants for any personal wrong committed or threatened by them; because it did not charge against them in their individual character anything done or threatened which constituted in contemplation of law a violation of personal or property rights or a breach of contract to which they were parties. In these particulars the Ayers case differs materially from the case now before me. In that case the Supreme Court says: "But this is not intended in any way to infringe upon the principle which justifies suits against individual defendants, who, under color of the authority of unconstitutional legislation by the State, are guilty of personal trespasses and wrongs, nor to forbid suits against officers in their official capacity either to arrest or direct their official action by injunction or mandamus where such suits are authorized by law, and the act to be done or omitted is purely ministerial in the performance or omission of which the plaintiff has a legal interest."

In Davis vs. Gray, 16 Wall., 203, the Supreme Court held that a Circuit Court of the United States, in a proper case in equity, may enjoin a State officer from executing a State law in conflict with the Constitution or a statute of the United States when such execution will violate the rights of the complainant; that making a State officer a party does not make the State a party, although her law may prompt his action and she may stand behind him as the real party in interest. That case was a suit by Gray against Davis, the Governor of the State of Texas, and Keuchler, Commissioner of the Land office of that State, and the injunction issued by the Circuit Court of the United States for the western district of Texas, restraining said officers from issuing and signing certain land warrants was sustained, as I have mentioned, by the Supreme Court of the United States.

In the case of Pennoyer vs. McConnaughy, 140 U. S., 1, in which the Supreme Court reviewed the cases bearing on this subject, Mr. Justice Lamar, speaking for the court, said: "But the general doctrine of Osborne vs. Bank of the United States, that the Circuit Courts of the United States will restrain a State officer from executing an unconstitutional statute of the State, when to execute it would violate rights and privileges of the complainant which had been guaranteed by the Constitution and would work irreparable damage and injury to him has never been departed from. On the contrary, the principles of that case have been recognized and enforced in a very large number of cases, notably in those we have referred to as belonging to the second class of cases above mentioned." In reference to the case just referred to, he used this language: "The first class is where the suit is brought against the officers of the State, as representing the State's action and liability, thus making it, though not a party to the record, the real party against which the judgment will so operate as to compel it to specifically perform its contracts."

The other classes is where a suit is brought against defendants who, claiming to act as officers of the State, under the color of an unconstitutional statute, commit

ACTS OF WRONG AND INJURY

to the rights and property of the plaintiff acquired under a contract with the State. Such suit, whether brought to recover money or property in the hands of such defendants, unlawfully taken by them in behalf of the State, or for compensation in damages, or in a proper case where the remedy at law is inadequate, for an injunction to prevent such wrong and injury, or for a mandamus, in a like case, to enforce upon the defendant the performance of a plain legal duty, purely ministerial, is not within the meaning of the Eleventh Amendment an action against the State. Osborne vs. Bank of the United States, 9 Wheat., 738; Davis vs. Gray, 16 Wall., 203; Tomlinson vs. Branch, 15 Wall., 460; Litchfield vs. Webster county, 101 U. S., 773; Allen vs. Baltimore and Ohio Railroad, 114 U. S., 311; Board of Liquidation vs. McComb, 92 U. S., 531; Poindexter vs. Greenhow, 114 U. S., 270."

Complainant insists that his case is included in the reasoning of the court in the cases last cited, and also that he is entitled to present his bill to this court, relative to the matters therein set forth, because of the provisions of the Constitution of the United States, and particularly of the Fourteenth and Fifteenth Amendments thereof. To the consideration of this point and of the constitutionality of the registration laws of the State of South Carolina we now come. Complainant insists that the registration laws of South Carolina are in contravention of the provisions of the Constitution of South Carolina, and that they also violate the Constitution of the United States, his rights as a citizen of the United States being so affected thereby as to entitle him to be heard in this court on the complaint we now consider. The Constitution of South Carolina contains the following provisions: Article 1, section 31: "All elections shall be free and open, and every inhabitant of this commonwealth possessing the qualifications provided for in this Constitution shall have equal right to elect officers and be elected to fill public offices."

Article 8, section 2: "Every male citizen of the United States of the age of 21 years and upwards, not laboring under the disabilities named in this Constitution, without distinction of race, color or former condition, who shall be a resident of this State at the time of the adoption of this Constitution, or who shall hereafter reside in this State one year and in the county in which he offers to vote sixty days next preceding any election, shall be entitled to vote for all officers that are now or hereafter may be elected by the people, and upon all questions submitted to the electors at any election. Provided that no person shall be allowed to vote or hold office who is now or hereafter may be disqualified therefor by the Constitution of the United States, until such disqualifications shall be removed by the Congress of the United States. Provided, further, that no person, while kept in an almhouse or asylum, or of unsound mind, or confined in any public prison shall be allowed to vote or hold public office."

Article 8, section 3: "It shall be the duty of the General Assembly to provide from time to time for the registration of all electors."

Article 8, section 7: "Every person entitled to vote at any election shall be eligible to any office which now is, or hereafter shall be, elective by the people of the county where he shall have resided sixty days previous to such election except as otherwise provided in this Constitution or the Constitution and laws of the United States."

Article 8, section 8: "The General Assembly shall never pass any law that will deprive any of the citizens of this State of the right of suffrage, except for treason, murder, robbery or duelling, whereof the person shall have been duly tried and convicted."

Section 2, article 1, of the Constitution of the United States is as follows: "The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

Section 1 of the Fourteenth Amendment is in these words: "All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Article 15 of the amendments to the Constitution reads: "Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color or previous condition of servitude.

"Section 2. The Congress shall have power to enforce this article by appropriate legislation."

The Congress has given to the Circuit Courts of the United States jurisdiction of all suits to enforce the right of citizens of the United States to vote in the several States.

We find now that a citizen of South Carolina is a citizen of the United States residing in that State. The rights, privileges and immunities belonging to him as a free citizen are his as a citizen of the United States, and do not depend upon his citizenship of that State. The plaintiff Mills, a citizen of African descent, is a citizen of the United States and of the State of South Carolina; by the Fourteenth Amendment he has been made a citizen of the United States and by the Fifteenth Amendment he is a voter in the State in which he resides. Previous to the adoption of these amendments the race to which he belongs

HAD NO RIGHTS

that the white men of this country were bound to respect, and it was not possible for any one belonging to it to be a citizen of the United States. In the slaughter house cases, the Supreme Court of the United States, referring to the time immediately preceding and following the adoption of these amendments, said:

"The institution of African slavery, as it existed in about half the States of the union, and the contests pervading the public mind for many years between those who desired its curtailment and ultimate extinction and those who desired additional safeguards for its security and perpetuation culminated in the effort on the part of most of the States in which slavery existed, to separate from the Federal government and to resist its authority. This constituted the War of the Rebellion and whatever auxiliary causes may have contributed to bring about this war, undoubtedly the overshadowing and efficient cause was African slavery.

"In that struggle, slavery, as a legalized social relation, perishsd. It perished as a necessity of the bitterness and force of the conflict. When the armies of freedom found themselves upon the soil of slavery they could do nothing less than free the poor victims whose enforced servitude was the foundation of the quarrel. And when hard pressed in the contest, these men (for they proved themselves men in that terrible crisis) offered their services and were accepted by thousands to aid in suppressing the unlawful rebellion. Slavery was at an end wherever the Federal government succeeded in that purpose. The proclamation of President Lincoln expressed an accomplished fact as to a large portion of the insurrectionary districts, when he declared slavery abolished in them all. But the war being over, those who had succeeded in re-establishing the authority of the Federal government were not content to permit this great act of emancipation to rest on the actual results of the contest or the proclamation of the executive, both of which might have been questioned in after times, and they determined to place this main and most valuable result in the Constitution of the restored union as one of its fundamental articles. Hence the Thirteenth Amendment to that instrument. Its two short sections seem hardly to admit of construction, so vigorous is their expression and so appropriate to the purpose we have indicated:

"'1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction.

"'2. Congress shall have power to enforce this article by appropriate legislation.'

"The process of restoring to their proper relation with the Federal government and with the other States those which had sided with the rebellion, undertaken under the proclamation of President Johnson in 1865, and before the assembling of Congress, developed the fact that, notwithstanding the formal recognition by those States of the abolition of slaves, the condition of the slave race would, without further protection of the Federal government, be almost as bad as it was before. Among the first acts of legislation adopted by several of the States in the legislative bodies which claimed to be in their normal relations with the Federal government, were laws which imposed upon the colored race onerous disabilities and burdens, and curtailed their rights in the pursuit of life, liberty and property to such an extent that their freedom was of little value, while they had lost the protection which they had received from their former owners from motives both of interest and humanity.

"They were in some States forbidden to appear in the towns in any other characters than menial servants. They were required to reside on and cultivate the soil without the right to purchase or own it. They were excluded from many occupations of gain and were not permitted to give testimony in the courts in any case where a white man was a party. It was said that their lives were at the mercy of bad men, either because the laws for their protection were insufficient or were not enforced.

"These circumstances, whatever of falsehood or misconception may have been mingled with their presentation, forced upon the statesmen who had conducted the Federeal government in safety through the crisis of the rebellion, and who supposed that by the thirteenth article of amendment they had secured the result of their labors, the conviction that something more was necessary in the way of constitutional protection to the unfortunate race who had suffered so much. They accordingly passed through Congress the proposition for the Fourteenth Amendment, and they declined to treat as restored to their full participation in the government of the union the States which had been in insurrection until they ratified that article by a formal vote of their legislative bodies.

"Before we proceed to examine more critically the provisions of this amendment (on which the plaintiffs in error rely), let us complete and dismiss the history of the recent amendments, as that history relates to the general purpose which pervades them all. A few years' experience satisfied the thoughtful men who had been the authors of the other two amendments that, notwithstanding the restraints of those articles on the States, and the laws passed under the additional powers granted to Congress, these were inadequate for the protection of life, liberty and property, without which freedom to the slaves was no boon. They were in all those States denied the right of suffrage. The laws were administered by the white man alone. It was urged that a race of men distinctively marked as was the negro, living in the midst of another and dominant race, could never be fully secured in their person and their property without the right of suffrage.

"Hence the Fifteenth Amendment, which declares that "the right of a citizen of the United States to vote shall not be denied or abridged by any State on account of race, or previous condition of servitude." The negro having, by the Fourteenth Amendment, been declared to be a citizen of the United State, is thus made a voter in every State of the union.

"We repeat, then, in the light of this recapitulation of events too recent to be called history, but which are familiar to us all; and on the most casual examination of the language of these amendments, no one can fail to be impressed with the

"ONE PERVADING PURPOSE"

found in them all, lying at the foundation of each, and without which none of them would have been even suggested; we mean the freedom of the slave race, the security and firm establishment of that freedom, and the protection of the newly-made freeman and citizen from the oppressions of those who had formerly exercised unlimited dominion over him. It is true that only the Fifteenth Amendment, in terms, mentions the negro by speaking of his color and his slavery. But it is just as true that each of the other articles was addressed to the grievances of that race, and designed to remedy them, as the Ffteenth.

"We do not say that no one else but the negro can share in this protection. Both the language and spirit of these articles are to have their just weight in any question of construction. Undoubtedly while negro slavery alone was in the mind of the Congress which proposed the thirteenth article, it forbids any other kind of slavery, now or hereafter. If Mexican peonage or the Chinese coolie system shall develop slavery of the Mexican or Chinese race within our territory, this amendment may be safely trusted to make it void. And so if other rights are assailed by the States which properly and necessarily fall within the protection of these articles, that protection will apply, though the party interested may not be of African descent. But what we do say, and what we wish to be understood is, that in any fair and just construction of any section or phrase of these amendments, it is necessary to look to the purpose which we have said was the pervading spirit of them all, the evil which they were designed to remedy, and the process of continued addition to the Constitution until that purpose was supposed to be accomplished, as far as constitutional law can accomplish it.

"The first section of the fourteenth article, to which our attention is more especially invited, opens with a definition of citizenship—not only citizenship of the United States, but citizenship of the States. No such definition was previously found in the Constitution, nor had any attempt been made to define it by act of Congress. It had been said by eminent judges that no man was a citizen of the United States except as he was a citizen of one of the States composing the union. Those, therefore, who had been born and resided always in the District of Columbia or in the Territories, though with-

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CONSTABLES ENJOINED.

NOT TO SEIZE LIQUOR BROUGHT IN FOR PRIVATE USE.

Decision of the United States Court in the Cases Heard Last Week—An Injunction Against All the State Constabulary.

COLUMBIA, S. C., May 8.—Special: There was the usual crowd in the Federal court room yesterday and today. Unusual interest was taken in the argument yesterday—being the speech of Mr. J. P. K. Bryan of Charleston, in support of the motion to enjoin the dispensary officers and agents from interfering with liquors brought into this State for private consumption. There were other details in the case, but this was the main question to which the argument was directed. A case having the same object as Mr. Bryan's was also brought by Messrs. Pope and Caldwell. In these cases Judges Goff and Simonton sat together.

On behalf of the State, Assistant Attorney General Townsend read the return of the dispensary officers, setting up, in substance, that the dispensary law is a police regulation of the State of South Carolina, and that it does not at all interfere with interstate commerce. There were other points made on this side also, but the statement just given covers the ground.

The different lawyers spoke in the following order: Mr. Townsend, Dr. Pope, Mr. Caldwell, Mr. Bryan, Mr. Barber. The positions taken by either side are intelligibly stated in the opinion of Judge Simonton, which was delivered this morning. It is as follows:

James Donald vs. J. M. Scott, M. T. Holley, Sr., et al.

This is a bill against the defendants, State constables of the State of South Carolina.

The bill states that complainant who is a citizen of the United States, and of the State of South Carolina, was the owner of certain packages of alcoholic liquor, to wit: One barrel of Rochester beer, made in the State of New York, and shipped to him by ocean and land routes to the city of Charleston, his place of residence. One package of Pickwick club whiskey, containing six quart bottles purchased in Baltimore, in the State of Maryland, and shipped to him by steamer and railroad to Charleston, South Carolina, his residence, and one case of domestic California claret, containing one dozen quart bottles, shipped to him from the place of purchase, Savannah, in the State of Georgia, to Charleston by rail. That these packages contained liquors for his own personal use and consumption, and not for sale in any way. That none of them contained any product of the State of South Carolina, but their contents were products of other States of the Union. That each package was openly marked in his name. That upon the arrival of each of the said packages at Charleston, its destination, it was forcibly seized by the defendants, claiming to act as State constables, and taken and carried by them by pretense of authority of the act of the General Assembly of South Carolina, approved 2d January, 1895, commonly known as the dispensary law. That before the arrival of each shipment the complainant had given notice to the defendants of his intention to import the same for his own personal use, from points without this State, and that the defendants, when they made their several seizures, had knowledge of all the facts connected with the importation, shipment and proposed use of the packages. That upon each seizure, and after demand and refusal, he brought his action for the unlawful trespass on his rights by the defendants, and that notwithstanding this, they persist therein, and manifestly propose to drive him to a multiplicity of suits. That he had no adequate remedy at law, for these repeated violations of his rights, as defendants are notoriously insolvent, and pecuniarily irresponsible. He avers that so much of the dispensary law as is set up in justification of these acts of the defendants, in preventing him from importing, for his own use and consumption, alcoholic liquors, the products of other States, into this State, violates the interstate commerce law, as established by the Constitution and laws of the United States, and is null and void. His bill filed as well in his own behalf, as in that of other citizens of this State, in like plight with himself, prays an injunction against the defendants, forbidding them to continue their unlawful search and seizure of packages imported as these were.

Upon filing the bill a rule was issued requiring the defendants to appear and show cause why an injunction should not be issued as prayed for in the bill.

The defendants have appeared, and have filed their return.

After denying the jurisdiction of the court, because this suit is in fact one against the State, and because it presents no question arising under the Constitution and laws of the United States, and because the allegations of the bill show no ground of equity jurisdiction, they answer in detail the allegations of the bill, excusing and justifying their conduct in the premises under the provisions of the dispensary law.

The arguments at the hearing on both sides have been able and exhaustive. The time at the command of the court forbids for the present any extended discussion, of the important points raised and elaborately discussed. This must be reserved for a future occasion. Conclusions can only at this time be given.

It is not a suit against the State of South Carolina, nor is she in any way a party thereto. Certain persons claim to act in the name of the State, basing their claim on the dispensary law. Their justification depends on the validity of that law, and if it or that part of it which authorizes them to seize and carry away the property of the complainant under the circumstances charged in the bill be in conflict with the Constitution of the United States, or any law made thereunder, it is null and void, is as if it never existed, and they are left without justification.

The questions made in the bill are Federal questions. Are the acts complained of in violation of the Constitution of the United States or of any law passed thereunder?

This court, sitting in equity, has jurisdiction over the matters stated in the bill, to prevent a multiplicity of suits, and because the complainant has no plain, adequate or complete remedy at law.

We come then to the all-important question on the merits of the bill.

Is the provision of the dispensary law, which forbids a citizen of the State himself to import for his own use from the other States alcoholic liquors sustainable under the act of Congress commonly known as the Wilson bill? It is, if these provisions of the dispensary law are the lawful exercise of the police power of the State.

The dispensary law nowhere declares that use and consumption of alcoholic liquors in themselves are injurious to the morals, good health and safety of the State, or of her people. On the contrary the dispenrary law makes the most ample provision for the purchase of alcoholic liquors in this State, and elsewhere, for their distribution in convenient packages within the reach of nearly every person throughout all portions of the State, for use and consumption by the people of the State, and in every way it encourages such use and consumption. Even in localities in which the majority of the inhabitants refuse to have a dispensary, provision is made for the procurement of alcoholic liquor by those persons within the locality who desire to use it. Alcoholic liquor is declared to be contraband and against morals, good health and safety of the State, only when it is not imported by the dispenser, or is not in his hands, or in the hands of some one with his permission. Alcoholic liquors imported into this State and declared contraband, and so subject to seizure, just as soon as they are seized and passed into the hands of the dispenser, lose their injurious qualities, are put into the channels of distribution and are sold to the people of the State for their use and consumption.

It is not necessary to go into a minute and detailed examination of all the provisions of the dispensary law, nor to determine whether all these provisions are, or are not in the exercise of the police power. It is sufficient for the purposes of this case to say that in so far as the dispensary law forbids a citizen to purchase in other State, and to import into this State alcoholic liquors for his own use and consumption, the products of other State, it discriminates against the products of other states. Such discrimination cannot be made under the guise of the police power. Walling vs. Michigan, 116 U. S., 446, cited and approved in Plubley vs, Massachusetts, 155 U. S., 471. Ernest vs. Missouri 156 U. S., 296. And further in so far as this act permits the chief dispenser to purchase in other States alcoholic liquor, and to import them into this State for the purpose of selling them, for use and consumption, at retail within the State, and forbids all other persons from so purchasing and importing for their individual use and consumption, it discriminates against all other citizens of the State. It also makes a discrimination against all persons in the trade in other States who are not patronized by the State dispenser, folbidding them to seek customers within the State, and to enjoy a commercial intercourse secured to others in this State.

These conclusions rest on this discrimination. If it did not exist, and if all alcoholic liquors were excluded from the State, or if all persons were forbidden to import alcoholic liquors, or if the laws of South Carolina had declared that all alcoholic liquors were of such poisonous and detrimental character, and that their use and consumption as a beverage were against the morals, good health and safety of the State, other and different questions would arise.

Let an injunction issue as prayed for in the bill.

THE INJUNCTION.

On motion of J. P. K. Bryan, etc., it is ordered, adjudged and decreed that a writ of injunction be awarded and do issue out of this court, commanding and enjoining and restraining the defendants, M. T. Holley, Sr., as chief constable of the State of South Carolina, and all other State constables of the State of South Carolina, and officers and others persons acting under him, and their successors in office, and also the defendents, J. M. Scott, R. M. Gardner and E. C. Beach and all other State constables of the State of South Carolina and all county sheriffs and their deputies and all municipal officers chiefs of police and all other officers of the State of South Carolina, or of any county, city or town of the said State of South Carolina, and all persons whomsoever acting or claiming to act under the authority of the act of the General Assembly of the State of South Carolina, approved January 2, 1895, or under any warrant issued by or under authority thereof from seizing or attempting to seize in transit or otherwise, both before and after arrival in the State of South Carolina, and at any place in the State of South Carolina, and from taking, carry away or confiscating any packages whatsoever of ales wines, beers or spirituous liquors, or any intoxicating liquours, the product of any other State or foreign country, imported into, or brought into the State of South Carolina by any means of transportation whatsoever, by the complainant James Donald, or any other person whomsoever, for his own use and consumption; and from entering focibly or searching or attemping to seach the premises or dwelling of the complainaint, James Donald, or any other person in the State of South Carolina, or any railroad depot, railroad car or steamboat, or sailing vessel, or other vehicle of intersate commerce or any vehicle whatsoever within this State for such intoxicating liquors as aforesaid imported or brought into this State for his use or consumption or from hindering and preventing by any means whatsoever the complainant. James Donald, or any other person in the State of South Carolina as importer and consumer of the ales, beers, wines and spirituous liquors of other States and foreign counties from importing, holding, possessing, using and consuming the said intoxcating liquors as aforesaid, so imported for his use and consumption.

CHARLES H. SIMONTON,
May 8th, 1895. Circuit Judge.

THE DUNBAR CASE.

In the case brought by one Dunbar, through Messrs. Pope and Caldwell, Judge Simonton also delivered the judgment of the court. In substance he held that Dunbar's complaint does not entitle him to the injunction prayed for, chiefly because, as shown by the return of the State officials, the party who made the seizure was not before the court and because his act had not be commanded or induced by any of such officials. The temporary injunction heretofore issued was accordingly dissolved.

The Contempt Case.

The decision of the court in the proceeding against Dispensary Commissioner Mixon and Constables A. T. Davis and S. G. Lafar, charged with contempt of court in disregarding the injunctions of Judge Goff and Judge Simonton, respectively—which injunctions forbade the seizure of liquor brought into this State, consigned to private parties, was also delivered this morning. One alleged contempt consisted in the issue of the following circular letter:

COLUMBIA, S. C., April 25, 1895
Circular Letter to State Constables:

Sir: Enclosed you will find three kinds of certificates to be used only as follows: One to bring goods into the the State, one to carry goods out of State and the other to ship goods from point to point in the State. The latter ones will be used by every one who does any shipping in the State, including shipping from the State dispensary to the county dispensaries and elsewhere, and by the State constables in shipping to the commission here. You will see that the blanks are properly filled in and you will be particularly vigilant to catch any packages going from place to place in this State not bearing the proper certificate and in taking packages shipped into or out of the State, unless properly stamped. You will also find twelve of the certificates for your own use. Send into me any others you may have on hand.

F. M. Mixson, State Commissioner.

Each of the constables set up that he did not know of the injunction and that he was acting under the law. In both returns, also, it was claimed that the court was without jurisdiction in the premises. All the parties attached for contempt disclaimed any purpose whatever to disregard the orders of the court, and expressed their purpose to obey them in future.

The Commissioner stated that in issuing the circular letter he had no purpose to disregard any order of court. The decision in this matter was as follows:

United States of America, District of South Carolina, Fourth Circuit—In the Circuit Court—In re Frank M. Mixson.

The respondent in his return to the rule issued against him disclaims on oath any intent or purpose to oppose, disregard or disobey the order of his court.

In the special matter of the certificates issued by him to the State constables he says under oath that this was done in the ordinary duties of his office, that the certificates were prepared long before the order was issued and although they were marked on the same day on which the order was served on him, he did this with no intent or purpose of disobeying or disregarding the order.

That in his circular letter addressed to the State constables simultaneously with the issue of the certificates he inadvertently gave them instructions. His counsel in his behalf stated in open court that this was the result of inexperience in his office. He now knows that he has no right to give constables any instructions. But he disclaims in so doing any intent or purpose of opposing, disregarding or disobeying the order of this court.

Under these circumstances, and in view of these solemn declarations under oath by respondent he is held to have purged himself of contempt.

The rule is discharged.

Charles H. Simonton,
Circuit Judge.

May 8, 1895.

A Bemedy for Chicken Cholera.

This is the time of year when owners of poultry are fearing and trembling about chicken cholera. A gentleman came into the office recently and mentioned that he had recently been visiting in a neighboring town and noticed that a merchant had a barrel of venetian red. He asked him what was the object in keeping so much of the red on hand. The reply was that the people in that section used it to prevent and cure chicken cholera. The curiosity of the visitor was excited and he ascertained that it wat the custom to mix a tablespoonful of the red in a pint of corn meal and give it to the fowls two or three times a week and when so used there was no cholera.—Greenville News.

Two Young Ladies Drowned.

MOUNT JACKSON, Va., May 5.—Miss Birdie Neuf, daughter of Captain Neuf, who represents this county in the Virginia Legislature, and Miss Wyatt, a young school teacher of Charlestown, West Va., were drowned yesterday on the Shenandoah river. The ladies, accompanied by Charles Bowman, cashier of the Mount Jackson National Bank, and another lady, were boating. The boat capsized. Mr. Bowman seized the lady nearest him and swam with her to the shore, the others sank before he could return to their rescue.