THE NEWBERRY HERALD AND NEWS, WEDNESDAY, OCTOBER 10, 1894.

The Herald and News

ELEERT H. AULL, } Proprietors. WM. P. HOOSEAL, } ELEERT-H. AULL, EDITOR.

CONSTITUTIONAL.

Justice Gary, of the Supreme Court, came to Newberry on Sunday and had a consultation with Justice Pope of the same court and on Monday afternoon his written decision on the dispensary ion that the act of 1893 is constitutional. are proud and if with years we have Justice McIver dissents and holds to the same views as expressed by him in a accumulated a store-house of experiformer opinion. The two opinions were printed in the daily papers yesin another column. The majority county. We have devoted our best terday. We present synopses of both of the Court holding the view that the law is constitutional, the former opinion of the Court is annulled and the law now stands. Gov. Tillman was correct in his judgment as to what were the views of Justice Gary on this point. We suppose he knew what he was talking about and what he was doing when trust that it will be done in such a manner and in such spirit as will cause as little friction as possible, | and thus avert riot and bloodshed.

bodying the principles governing the and News has never espoused the cause down the following propositions as emcaso:

"1st. That liquor in its nature is dangerous to the morals, good order, health and safety of the people, and is not to be placed on the same footing with the ordinary commodities of life, such as corn, wheat, cotton, tobacco, potatoes, etc.

"2nd. That the State, under its police force, can itself assume entire control and management of these subjects, such as liquor, that are dangerous to the peace, good order, health, and morals and welfare of the people, even when trade is one of the instruments of such entire control and management on the part of the State. "3d. That the Act of 1993 is a police measure.'

Granting that the first proposition is the people to "remember the 29th." true and correct, and that, therefore, We took his advice then, and while the State has the right to take charge | The Herald and News had no candiof whiskey because it is dangerous to date we were satisfied with the result. the good morals of the country, does In the recent primary The Herald and that mean that she shall sell it to News had no candidates, but we would everybody and in sufficient quantities not be surprised if its editor was successto keep all the people drunk; and if ful in electing as many of the men he this is done, how is the danger to the voted for in the county election as was good morals averted by the State sell- the editor of the Voice. The Herald and News would have ing it instead of the individual? It cannot be denied that the disposition the esteemed Voice to remember that of the administration under the law is The Herald and News is too old to to establish as many dispensaries as entertain any feelings of jealousy and possible and to sell all the whiskey envy and that we have only the kindthat can be sold. In many cases dis- liest feelings for it. As we have before pensaries are established against the remarked this is supposed to be a will of the majority of the citizens, free country and if any aggregation of

MR. JUSTICE BENET ON CONSTITU-NO MALICE AFTERTHOUGHT. The Herald and News had no inten-According to Judge W. C. Benet, tion nor desire to misrepresent the

taken we beg pardon.

their favors.

whose charge to the graud jury at esteemed Voice. We bear neither it Columbia we publish in another column, nor any of its stockholders any ill-will. there is no need of a constitutional We had been informed that the three convention, nor for that matter a congentlemen named were among its largstitution. Really according to his opinest stockholders and we naturally supion we see very little use of a court. We posed that even common gratitude have been taught to believe that it was would make it feel an interest in its own the duty of the Supreme Court to inter. and its chief founders. If we were mis-

TIONS

The Herald and News was founded with the provisions of the constitution in 1865 and traces its progenitors to the clerk of the court at Columbia. He first paper founded in Newberry County that it was the duty of the Court and Justice Pope concur in the opin- away back in the fifties. Of our age we to say so, and that this particular not gained wisdom we have at least neither inherent in the Courts themselves nor was it conferred npon them ence. We hope it will not be considby the constitutions which created ered a reproach to have grown old in them." On this point Mr. Justice the service of the people of our native energies and all the talents with which we are endowed to the promotion of the authority on constitutional law, ssys: "The power of interpreting the laws happiness and prosperity of the people

necessarily involves the power to decide of our native county. Many times we of our native county. Many times we whether they are comformable to the have been made to feel that our labors constitution or not; and in a conflict were in vain and that our services were between the laws, State or national, not appreciated. Then again we have and the constitution, no one can doubt. had many words of encouragement and that the latter is and ought to be of cheer and the people have stood by us accordingly it always has been deemed now that renewed efforts will be put and they shall continue to have our best a function indispensable to the safety forth to have the law enforced. We efforts. We are extremely grateful for and liberty to the people that courts of this support and shall labor to merit void such laws as violate the constitution. The framers of the constitution having these great principles in view

From out our store-house of experience and observation we would say to unanimously adopted two fundamental resolutions on the subject; First, that a Justice Gary, in delivering the opin-ion of the majority of the Court, lays politicians very hard task masters and lisbed and secondly that it ought to be estab-ion of the majority of the Court, lays politicians very hard task masters and lisbed and secondly that it ought to police measure and that the State, possessed of no gratitude. The Herald of the legislative department."

will find himself in a hopeless minority when trade is one of the incidents of of any man who has sought office within the county and it never expects to. in this country of constitutional gov-We do not represent any faction but ernment. His deliverance may be good shall continue to look out for the best in England where they have no written interests of the whole people, and try constitution but it will not do for this to publish a paper that is a fair and country where our organic law is in impartial purveyor of the news, advocatthe shape of a written constitution. ing those principles that in our judg-Maybe Mr. Justice Benet is only wantment will redound to the best interests ing a little prominence and newspaper of all the people. This nugget of experinotoriety. If that be true no doubt his ence is given the esteemed Voice for ambition is gratified. But this is a serious what it is worth, and we make no matter and a judge on the bench should charge for it. Remember that in 1893 guard well his words and remember, the editor of the Voice, when he was though he be a native of England, he editor of a paper at Prosperity. urged

is presiding over a Court in South Carolina.

> Judge W, C. Benet is making a reord. He has delivered a dissertation declares, is not before the court. on constitutions, and in a case before him in Columbia there was

drawn for the court. and in most of them, at least, every- men desire to plant their money in a clusions from the law and the evidence. objection to the law, is that it embarks

carry a county in the State.

We need to harbor our resources and

The Democrats won in Georgia, but

the Populist vote is much larger than

we expected. The Populists have made

great gains in the Legislature, and the

Democratic majority is reduced to only

about 30,000. We believe that Popu-

lism is stronger in Georgia than it is in

South Carolina, if the issue were clearly

and sharply drawn. If the Populists

continue to grow in Georgia by the

next election they will sweep the State.

Abbeville has organized a Water,

Light and Power Company and pro-

poses to put in electric lights and

water works. What is the matter with

Newberry? Does she propose to lag

along behind in the march of progress?

At one time she was the foremost

among the smaller towns. Now several

have passed her. We need some young

life thrown in the breach to move her

We notice that The Cotton Plant

along. What's the matter with a

young men's business league?

eut off unnecessary expenses.

finish

DISPENSARY WINS.

The Supreme Court Holds the Law Constitutional-Judge McIver Dissents, and Stands as He Did Before.

[Special to Atlanta Constitution.] COLUMBIA, S.C., October S.-For the second time Governor Tillman's liquor law came out of the hands of the Supreme Court this evening, on this occa-

sion completely rehabilitated. "The city council of Aiken against pret and construe statutes and constitu- Holly and George" was the title of the tions, and if a statute was in conflict | case in which Justices Pope and Gary, Tillmanites, sustain the dispensary, reversing the decision pronouncing i unconstitutional delivered by the court last April, when Samuel McGowan, statute would be null and void, but anti-Tillmanite, was a member. McIver, according to Mr. Benet this power "is adhering to his previous opinion, dis-It will be remembered that the April

decision was upon an act passed in 1892. On August 1st Gary, elected over McGowan last Dccember, succeeded him and a week previous Governor Story, who has been considered until Tillman proclaimed in force the act the advent of Mr. Justice Benet, an of 1893, which he had suspended in April. Since the proclamation the dispen-

saries have been running on full time and constables have been seizing contraband spirits. When the dispensary at Aiken was reopened the city council at once arrested George, the dispenser, and Holly, a member of the county board of control, for violation of a city ordinance against the sale of liquor. The State carried the case before Circuit Judge Aldrich, .who sustained the city council, and then the State appealed to the Supreme Court. A special sesssion of the latter was immediately convened.

WHAT JUSTICE GARY SAYS. In deciding the law constitutional

entire control and management of sub-We think that Mr. Justice Benet jects that are dangerous to the peace,

> such coutrol, and that liquor is such a subject. He quotes authorities to show that the saloon keeper does not sell liquor by reason of an inalienable right. but because such power has been dele gated to him by the government, and reasons from this that it would be ap anomaly in the law to hold that the principal could delegate to an agent a greater power than the principal him-self could exercise. The justice holds that "the dispensary act itself is an outgrowth of the dissatisfaction on the part of the people with the manner in which the police power, when delegated was abused." He holds that its primary object is

not the raising of revenue and that it is within the power of the board of control to eliminate the profit feature altogether. Such question, however, he

As to the objection that the act is repugnant to the provisions of the constitution as to taxation, he says that could a negro man on the jury. The only be sustained in case the object of negro did not agree with the others on the act is not the exercise of police the panel with him and the result was, a mistrial had to be ordered. Indee a mistrial had to be ordered. Judge tion as to the constitution and that it creates a mo-Benet delivered him a lecture and dis- nopoly, is fully met by the decision in missed him from service and had his the slaughter house cases, wherein the name stricken from the list of jurors court declares that the legislature has the right to create a corporation when a certain result can best be attained by We thought that jurors had a right means thereof. He holds that the act

to reach their own conclusions from does not violate section 1, article 1, of the law and evidence, and that they the State Constitution, as it does not were responsible to no one for their con-able right." The justice says that the

Jastice McIver holds that the dis-per ry act is not a legitimate exercise of the police power, as this power can-not be so extended as to authorize the State to engage in a traffic forbidden to a citizen. Concerning the argument that when

State issues license to a saloon keeper it delegates to him the exercise of the police power, he says:

says that the dispensary legislation is neither the regulation of the traffic nor a prohibition of the same, but, on the contrary, is a scheme by which the State proposes to monopolize such traf-fic to the entire exclusion of the citizen, and to force every customer who may desire to obtain spirituous liquors for any purpose to purchase the same from the State authorities at such a profit to the State as may be fixed by the des-ignated State authorities, and hence, such legislation cannot be regarded as a legitimate exercise of the police power, and any legislation which, like the





body can buy whiskey who has the newspaper venture we have no quarmoney to pay for it. We cannot see rel with them. As a parting admonihow this plan of taking the sale out of tion we would say to the esteeme the hand of the individual and putting | Voice to console its soul in patience.

A TRAFFIC IN VOTES.

The Herald and News does not en-

the Columbia Register. Later he es-

much like getting a full and free ex-

pression of the will of the people. Pos-

"The will of the individual delegate

was stifled, and the man who had the

most votes to swap was the cock of the

was in session, with propositions to

had to trade on. And this business did

not stop here, but the subordinate

vance for votes, so we are reliably in-

"It was with indignation that we saw

based and prostituted to satiate the

The Post, an afternoon paper, has

been started in Charlestou. It is owned

by ajoint stock company and will be

edited Mr. Hartwell M. Ayer, recently

of the Florence Times. There is a

good field in Charleston for a progress-

hope Mr. Ayer will be able to cultivate

see no reason why he should not

succeed. We wish the new enterprise

success, and shall be glad to welcome

the Post among our exchanges, though

as yet we have received only one copy.

greed of office-seekers.'

further on the subject:

formed.

it in the hands of the State, through its agents, will help the good morals or be conducive to the peace and health and safety of the people. Now if these joy the pleasure of reading the Piedare the objects in view with the law, it mont Headlight, but now and then we seems to us that the effort should be see chunks of wisdom and so forth on the part of the State to sell just as from its columns copied by some of our little whiskey as possible; or, in other exchanges. It will be remembered words, to sell it only for medicinal and that the editor of this paper is Col. T. manufacturing purposes. But instead Larry Gantt, who was brought to of an effort to reduce the sale, the effort | South Carolina because of his peculiar is made to sell as much as possible in fitness as a champion of reform. For a order that revenue may go into the while he presided over the destinies of State treasury.

The dispensary has some good feat- tablished the Headlight at Spartanure, among which are the early closing burg. He was a delegate to the late and not selling in small drinks and State convention. Many of his pet doing away with the allurements and schemes and his favorites were lost in attractions of the bar room. But to say the scuffle. From some extracts from that whiskey is an enemy to the public his paper that have come under our safety and then in the next breath to vision, we would judge that he was say that the State can sell as much as somewhat disgusted with the way it pleases and to whom it pleases nnd things went. Not so much because his that whoever wants it and has the sense of justice was outraged, but money can get all he wants has no rather because he met defeat on several occasious. He says the convention logic or reason in it. If whiskey is an was "turned into a regular mart for enemy to the public safety and dangerous to the morals of the people it is as trading and trafficing in votes." No much so whether sold by the individu- doubt there is much truth in this al or the State. But the Supreme charge, and it is also very probably true that many of the leaders in this Court has decided that the law is Consort of business got left themselves. stitutional and as a law abiding citizen We were laboring under the impression we advise everybody to bow to the will that one of the prime purposes of the of the Court and obey the law. The best way to get rid of a bad law is to Reform movement was to get a full have it enforced and if the people do and free expression of the choice of the not like it they will soon demand its people. For the delegates to turn the convention into a "mart for trading removal from the statute books. and trafficing in votes," does not look

ALMOST A RIOT.

There was almost a not in Greenville sibly we have been laboring under a on Monday growing out of an effort of delusion. Hear what Col. Gantt says on the face of the globe. Let us take a State constable to search a private residence. There will continue to be trouble in South Carolina as long as this law remains on the Statute books. political walk. Friends of the rival Free white American citizens and candidates would go from delegation South Carolinians are not going to per- to delegation, while the convention South Carolinians are not going to permit their homes to be invaded and swap votes. No enquiry was made as searched at the pleasure of dispersary to the fitness of the candidates, but the constables. There is nothing said only requisite was how many votes he about this man using his residence as a place at which he sold whiskey. His places within the gift of the several wife was not well, and even the physi- heads of departments were peddled out cian stood at the gate and forbade the like country produce, and sold in adentrance of the constable because of the condition of the wife of Mr. Edel. Gov. Tillman threatens to have our great Reform movement thus de-Sheriff Gilreath removed because he would not make the search in company with the constable. The decision of the Supreme Court will now have the effect of making more trouble.

Bloodshed was averted at Greenville. We hope it will be a warning. At Darlington when there were threats of searching private houses there was ive and bright afternoon daily. We bloodshed, and it will be every time the effort is made to enter the sanctity this field. He is bright and energetic of the home. This thing of a man's and young and has experience. We home being his castle may be all sentime .t, but it is a sentiment for which a man will die, and how could he die nobler than in the defense of his home and those who look to him for protection. It is a sentiment which has been

We have received the first number HOOD'S **U.** Klettner, instilled from our earliest infancy. of October, Anno Domini 1894. We imbibed it at the mother's breast of a new paper at Batesburg, John Let every oue make up his mind to J. B. FELLERS, J. P. N. C. and it has become part of our nature. Lake, editor. It has the odd name, vote against a constitutional conven-THE WIELDER OF THE BATTLE AX. Sarsaparilla BRIDGE TO LET. This provision of the law had best not be | "This Way," and proposes to be partly | tion. There is no necessity for it and HE BRIDGE ON BUSH RIVER too rigidly enforced unless it is desired religious, partly educational and partly | it will cost \$50,000 to \$75,000 and we The renowned and celebrated auc-CURES to have bloodshed and involve the local. The first number is well gotten have about as much taxes now as we at Langford's Mill will be let to the lowest bidder on Friday, the 19th of melodeous voice will furnish sweet State in civil war. We believe in en- up, newsy and reflects credit on our can pay with five cents cotton. This is October, at 10 o'clock. The County music in your ear, and save you a dime forcing the law, but the constables will young friend Lake. We wish his eu- not a good time for making constitubottles, I was completely cured, and felt that ab Commissioners reserve the right to every time, Messrs. W. P. Bedenbaugh signs, marks and symptoms of that dire com-plaint had forever vanished." MRS. E. E. OTTAWA, Hillsboro, Wisconsin. find plenty to do without invading terprise success and the people of Bates- tions. Vote it down and if there is any eject any and all bids. By order of Board. J. C. DOMINICK, Chairman private homes, especially when the burg will do well to sustain this paper change desired in the constitution we physicians, say the life of the woman by a liberal support. It will pay them can make it by amendment without Hood's Pills are prompt and efficient, ye easy in action. Sold by all druggists. 25c. THOS. S. SEASE, Clerke of the home will be jeopardized by it. to do it. cost.

Not so in these days when, according the State in a commercial enterprise, does not hold good as long as the buy. to Judge Benet, we have no use for ing and selling are in pursuance of poconstitutions. The law is so careful of lice regulations.

Concerning the objection that the law in the right of the jury and its independviolates section 8 of the United States ence that it is error for a circuit judge Constitution, and also the Wilson bill to charge on the facts. But here is Justice Gary says:

Judge Benet dismissing a juror from "The intention of Congress was to the panel because he did not agree with deprive liquor of its national character the other jurors and the learned judge as a subject of commerce, make it local in its nature and subject it to the police on the facts. It has developed since power of the State until Congress Eyes. that this man was correct for another should see fit to legislate upon it. It prisoner has confessed as the guilty was the intention of Congress to subordinate the commercial power of the party in this particular case. national government to the police

power of the State on the subject of li-Dr. Sampson Pope says he is really quor.'

going to stay in the race for Governor CHIEF JUSTICE MCIVER DIFFERS. Chief Justice McIver on dissenting to the finish and says he feels hopeful and sure of a victory. He is one of those declares that the dispensary act rests sanguine and hopeful kind of men who | upon the same principles as the old act which was declared unconstitutional. always expect the good time to come Also he referred to "the well settled to-morrow. A half dozen letters and as and wholesome doctrine of stare decisis and the will of not adhering to the many telegrams from each county may former decision of the court. He debe calculated to give a man a great deal clares that until it is shown-which of encouragement and bright hopes, but never can be-that trade is one of the when it comes to votes they do not appropriate functions of civil governvent, and statutes purporting to emcount for very much. Dr. Pope may bark the State in any trading enterget a great many votes and may be prises is altogether beyond the comelected but we do not believe he will betency of the legislature, because it excludes the limitations upon the legislative power necessarily implied

from the express terms used in the constitution. The chief jusused We would say to those esteemed cotemporaries who seem to manifest an tice declares it a very dangerous interest in the race of Mr. Frank Moon, doctrine, asserted in the former case of Newberry, for governor, that he inand again insisted in this case "that the police power of the State is limited only forms us that he is still in the race and by the will of the legislature." expects to remain to the close. He says He then takes up the argument. he will have something to say to the

which, it will be remembered, was made from the bench last Monday by public in a few days, but he does not want the impression to get abroad that | Circuit Judge Benet in this city in his he is out of the race for he is in to the charge to the jury, that the courts have no right to inquire whether acts of the legislature or police regulations.

"I can't subscribe to any such doc-Read the article on the South since trine," says the chief justice, "for it the war. The power to recuperate, as would subject the rights of the citizen is shown the South has done, is pos- secured to him by constitutional pro sessed by no other country or people visions to the unrestrained will of the legislature, and would render absolutely useless all the safeguards provided courage. Our people will come out of in the constitution for the protection of the present financial crisis with their his rights against invasion by the lawabiding power of the government." heads erect and their eyes to the front.



am so glad to be relieved of my tortures that I am willing to tell the benefits I have dorived from Hood's Sarsaparilla. In April and May, I was afflicted with erysipelas in my face and eyes, which spread to my throat and neck. I tried divers ointments and alteratives, but there was no permanent abatement of the burn-ing, torturing pain, peculiar to this complaint I began to take Hood's Sarsaparilla and

Felt Marked Relief



Attest: Notary Public. FOSTER N. MARTIN. before the Court House at Newberry, on the First Monday in November, 1894, all that tract of land lying in the Coun-J. F. J. CALDWELL. R. L. MCCAUGHRIN. ties of Newberry and Union, contain-**O. KLETTNER** ing Seven Hundred and Six Acres and a Fourth, more or less, and bounded by lands of the estate of P. W. Chick, the THE FIRST OF ALL MERCHANTS

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estate of R. S. Chick and others. TERMS: The purchaser will be re-AT NEWBERRY HOLDING A uired to pay one-third of the purchase **GRAND OPENING** noney in cash, and to secure the alance by bond and mortgage of the premises, payable in one and two years, FOR THE FALL 1894, with interest from the day of sale. Not for one or two days only, but an

SILAS JOHNSTONE, Master. Master's Office, Sth Oct., 1894 STATE OF SOUTH CAROLINA

COUNTY OF NEW BERRY-IN PROBATE COURT.

By J. B. Fellers, Esq., Probate Ju-ige. WHEREAS, George P. Boczer, hath made suit to me to grant him Letters of Administration de bonis non with will annexed, of the Estate and effects of David Boozer, deceased:

These are therefore to cite and admonish all and singular the kindred and creditors of the said David Boozer, deceased, that they be and appear before me, in the Court Probate, to be held at Newberry Court House, on the 20th day of October, 1894, after publication hereof, at 11 o'clock in the forenozu,

to show cause, if any they have, why the said Administration should not be granted. Given under my Hand this 5th day

material, latest style, custom made, for D tions for Teachers' Certificates will less money than you can buy a suit of be held October 19, 1894. No second clothing that has been bargained and third grade certificates will be rethrough summer and winter for five or newed. Applicants will bring pen, ink ten years, refused by others. THOS. W. KEITT, and paper. School Commissioner. DO YOU WANT TO WEAR THEM NOW Look out if you do, and Buy a Lot as an Investment WELVE DESIRABLE BUILD-You might be as naked as a Jaybird. L ing Lots in the eastern part of town for sale on easy terms. O. B. MAYER. Every Suit we sell is guaranteed Double Seamed and Saddle Stitched.

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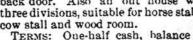
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rooms. A well of good water at the back door. Also an out house with three divisions, suitable for horse stable, cow stall and wood room.

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