

The Newberry Herald and News.

ESTABLISHED 1865.

NEWBERRY, S. C., TUESDAY, DECEMBER 18, 1900.

TWICE A WEEK, \$1.50 A YEAR

Money Making Times!

The Great Christmas Selling begins this week. Never before have we been so well prepared to meet the wants of the people. No time to lose if you are going to buy any Xmas presents for wife, mother, sister, brother or sweetheart, now is the time and

MIMNAUGH'S is the place.

Special articles at special prices will meet you on every hand this week. Ten salesmen and salesladies to serve you here. Just follow the crowds and you can't miss us. Record breaking values in Black and Colored Dress Goods at cut prices. Don't buy one yard of Dress Goods until you see our line. Here is but a few of them. You can't match a yard at these prices elsewhere. French Flannels with silk dots, all wool, handsome quality, other stores ask you 75c., 85c., and \$1.00 for same quality. MIMNAUGH'S price, as long as they last, 60c. a yard. 10 pcs. 50-inch Black Silk Gloria, regular one dollar kind, your choice only 65c. a yard. Now is your time to buy a Black Silk Dress cheap. Our entire line of Black Dress Goods, regular price 35, 40 and 50c. You can take your choice for only 25c. yd.

STEP QUICK!

5 Bales of Blankets and Comforts just opened—All-Wool Elklin No. Ca. Blankets.
50 pairs 10 4 All-Wool Blankets as long as they last \$3.75 worth \$5.00
50 " 11-4 " " " " \$4.75 " \$6.50
100 " 11-4 Grey and White Cotton Blankets only \$1.00 " \$1.50
100 " 11-4 " " " " \$1.40 " \$2.00
50 Large size Comforts for this sale " 95c.
25 " " " " " " \$1.25

A big lot fully guaranteed Gloves just opened up for the holiday trade, all sizes and shades, Tan, Gray, Castor, Brown and Black. Some stores in Newberry are getting \$1.25 and \$1.50 for same gloves. Our price is only 95c. a pair.
A big line of Drummers' Samples to be opened up this week at MIMNAUGH'S.
A clean sweep in Millinery. You can buy a handsome hat here for a little money, and remember the prices you paid before I opened Millinery, and the prices you pay today. I am satisfied with small profits and large sales.
100 Trimmed Hats, \$1.00, \$1.25 and \$1.50, worth double.

Capes and Jackets

Here is where the the old fogies lie in line behind. I have sold more fine Capes and Jackets than all the other stores in Newberry combined. Another shipment to be opened up this week. I buy them direct from the biggest manufacture in America. I pay no middle profit, don't buy a Cape or Jacket until you see our line, I will save you money.

Domestic Department.

5 bales Plaid Homespun for this sale, 4 1/2c.
2 bales Newberry Drills, extra heavy, 5 1/2c.
1 case, 50 pieces Canton Flannel, unbleached, regular 12 1/2c, for this sale, 8 1/2c.
Just opened Bed Ticking, Red and White Flannels, Bed Spreads, Table Linen, Towels, Bleached and Unbleached Sheetting, Hickory Stripes, Jeans, Onting, Under wear for men, women and children. Any of the above articles I will sell you 10 per cent. less than any house in Newberry.

Shoes! Shoes!!

I have just received 50 cases of Men's, Women's and Children's Shoes from a big railroad wreck. Nothing wrong with the shoes only boxes a little smashed.
5 cases Men's Stone Crusher Brogans, \$1.10 a pair, worth \$1.25.
5 " " Alfred Ties, best veal calf Brogans, \$1.20 a pair, worth \$1.50.
5 " " Woman's every day Shoes all sizes, \$1, a pair, worth \$1.25.
10 " " Heel or Spring Heel, Button or Lace, 95c a pair, worth \$1.35.
5 " " " " " " \$1.25 " \$1.75.
5 " " Men's Satin Calf Lace or Congress, \$1 a pair, worth \$1.35.
5 " " " " " " \$1.15 " \$2.
300 pairs Children's Shoes, as long as they last, 20c a pair, worth 35c.
Ask for Drew Selby & Co's Ladies' fine shoes, \$2 and \$2.50.
Ask for Lewis A. Crossetts men's fine shoes, \$2, \$2.50 and \$3, good as any man's \$5 shoes.

TRUNKS.

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Our entire line to be sold regardless of cost, \$2.50, \$2.75, \$3.00, \$3.25, \$3.50 and \$4.00. We sell everything to wear for Men and Women.

Mimnaugh.

MIMNAUGH.

Mimnaugh.

THE LEGISLATURE REBUKED.

PASSAGE OF SPECIAL ACTS IN VIOLATION OF THE CONSTITUTION.

One of those Special Acts Overruled by the Supreme Court, and in its Opinion the Court Declares: "In Order that a Law May be General it Must be of Force in Every County in the State, and while it May Contain Special Provisions Making its Effect Different in Certain Counties, those Counties Cannot be Made Exempt from its Entire Operation."

(News and Courier Dec. 12)

Columbia, December 11—Special: Here is another case of "I told you so." Year after year the General Assembly has been warned about the utter disregard of the Constitution in passing special legislation. Members have gotten up on the floor and announced that perhaps the legislation was special and contrary to the spirit of the Constitution, but have left it for others to test the matter and go to the trouble of a fight through the Courts.

The question has been asked what the members of the General Assembly would have to do at the coming session. A prominent member of the Senate and one well up on constitutional matters remarked to-day that a good portion of the time will have to be spent undoing the mistakes that had been made and trying to straighten out the laws and get around the decision that has just been filed in a case from Spartanburg County. The decision is far-reaching and many think will be revolutionary in future legislation. The decision says: "In order that a law may be general it must be of force in every county in the State, and while it may contain special provisions making it effects different in certain counties those counties cannot be made exempt from its entire operation."

Everyone knows how general is the provision "this Act shall not apply to this and that county."

There is often a mad scramble on the part of members to have their counties exempted from the provisions of certain Acts and if the statutes be examined it will be found that over half of the Acts of any one session, which have anything to do with county affairs, make different provisions for the different counties entirely regardless of the provisions as pointed out in the decision just filed.

Members of the Bar regard the decision just filed as one of the most important in recent years and one which is liable to be of decided effect. The Court is unanimous in its opinion. The opinion is written by Associate Justice Gary and Mr. Associate Pope concurs in the result.

The decision of the Court reads as follows: The record contains the following statement of facts:

Geo. B. Dean is, and was at the times hereinafter stated sheriff of the county of Spartanburg. In the fall of 1898 he presented to the supervisor and county board of commissioners for the county of Spartanburg his account against the county of Spartanburg and among other items therein charged against the county was a bill for dieting prisoners, in his charge, for the month of June, 1898—the said account for such dieting being made out at 30 cents per day for each prisoner. In due course of business the account was acted upon by the supervisor and county board of commissioners, and the account for dieting prisoners for that month was reduced by amount of sixty-seven and ninety-one hundredths dollars, the rate allowed by the said supervisor and board of commissioners being twenty cents instead of thirty cents, as charged. From the decision of the said supervisor and board of commissioners disallowing his claim as presented, Geo. E. Dean appealed to the Circuit Court for Spartanburg County.

His Honor, the Circuit Judge, dismissed the appeal, whereupon the plaintiff appealed to this Court on the following exceptions:

1. Because the proper construction of the various Acts relating to the fees of sheriff for dieting prisoners, to wit: Section 2,161 of Revised Statutes of 1893—the Act of March 9, 1896—the Act of March 2, 1897—the Act of February 10, 1898 and the Act of February 10, 1898 is that under the law of South Carolina at this time the legal fees for dieting prisoners in Spartanburg County are thirty (30) cents per day, and that the Circuit Judge erred in not so holding.

2. Because the Circuit Judge erred in not holding that the legal fees for dieting prisoners in Spartanburg County are thirty cents per day, for the reason that the Acts of 1893, 1897, particularly the Act of March 2, 1897, are unconstitutional and void in that:

(a) They are local and special laws fixing the amount and manner of compensation to be paid to a county officer, and, therefore, in violation of Subdivision 10, Section 34, Article 2, of the Constitution.

(b) They are local or special laws fixing the amount and manner of compensation to be paid to a county officer that are not graded in proportion to population and necessary service required, and, therefore, in violation of Subdivision 10, Section 24, Article 2, of the Constitution.

(c) They are local or special laws enacted where a general law could have been applicable, and, therefore, in violation of Subdivision 11, Section 34, Article 3 of the Constitution.

3. Because the Circuit Judge erred in holding that the first section of each of the Acts hereinbefore mentioned was constitutional, and fixed the compensation of sheriffs at thirty cents per day, even if the second section of said Acts and the provisions thereof were unconstitutional.

The pivotal question in this case is whether the Acts mentioned in the exceptions are unconstitutional.

At the time the Constitution of 1895 was adopted sheriffs were allowed, under Section 2,551, of the Revised Statutes, 30 cents per diem for dieting prisoners in jail.

In 1896 an Act was passed entitled: "An Act to regulate the dieting of all prisoners before and after conviction, when in the custody of the supervisors and sheriffs of this State, allowing only 20 cents per diem for dieting prisoners in jail, but providing that it should not apply to the counties of Marion, Charleston, Colleton, Barnwell, Richland, Berkeley, Sumter, Spartanburg, Kershaw, Anderson, Pickens, Williamsburg, Newberry, Union, Georgetown, Aiken, Beaufort, Lexington, Clarendon, Oconee, York, Abbeville and Darlington.

In 1897 that Act was amended by striking out Spartanburg County in the proviso exempting certain counties from the operation of said Act. An Act was passed on the 16th of February, 1898, entitled: "An Act to amend Section 2,437, General Statutes, being Section 2,561, Revised Statutes, by adding at the end of said section a proviso allowing only 35 cents per day for dieting prisoners in the jail in Charleston and Aiken counties." The Act then proceeds to state how it will read as

amended and sets forth the item: Dieting prisoners in jail, per day, 30 cents.

On the 19th of February an Act was passed entitled: "An Act to amend Section 2 of 'An Act entitled an Act to regulate the dieting of all prisoners before and after conviction, when in the custody of the supervisors and sheriffs of this State, approved the 9th day of March, A. D., 1896.'" Approved the 21 day of March 1897, so far as the same relates to Beaufort County.

Section 34, Article 11, of the Constitution, contains the following provisions: "The General Assembly of this State shall not enact local or special laws concerning any of the following subjects, or for any of the following purposes, to wit: * * * To fix the amount or manner of compensation to be paid to any county officer except that the laws may be so made as to grade compensation in proportion to the population and necessary service required."

"XI. In all other cases, where a general law can be made applicable, no special law shall be enacted."

"XII. The General Assembly shall forthwith enact general laws concerning said subjects for said services, which shall be uniform in their operations: Provided, that nothing contained in this section shall prohibit the General Assembly from enacting special provisions in general laws."

The Act of 1896, supra shows upon its face that the Legislature did not intend "to grade the compensation in proportion to the population and necessary service required."

The number of counties embraced within the provisions of the Act and those exempt from its operation are about equal.

Counties having a large population and those having a small population are to be found on each of said lists. The copulative conjunction is used in the Constitution and shows that in grading the compensation it must not only be in proportion to the necessary services required, but also in proportion to the population.

If this requirement of the Constitution had been complied with it would have been necessary to divide the counties into more than two classes—those affected by the Act and those exempt under the proviso in it.

The act of 1896 was local and special, and, therefore, was prohibited

by the Constitution. The Circuit Judge ruled that even if Section 2, of the Act of 1896, was unconstitutional, the first section thereof was valid, and that Spartanburg County was included in its provisions. We cannot accept this construction, as it would make the provisions of the Act applicable to those counties which the Legislature, in express language, had shown it intended to exempt from the operation of said Act. This is not a case where effect can be given to a portion of an unconstitutional Act. It is also contended that the Act of 1896 falls under the proviso in Subdivision XII hereinbefore mentioned, which is as follows: "Provided that nothing contained in this section shall prohibit the General Assembly from enacting special provisions in general law."

It is manifested from even casual reading of the Constitution that "local or special laws" and "special provisions in general laws" do not mean the same thing, and that they were intended to be construed in such a manner that neither would practically destroy the force of the other.

Furthermore, as the Act of 1896 was not the "general law," it did not come within the purview of the general proviso. In order that a law may be general it must be of force in every county in the State, and, while it may contain special provisions making its effect different in certain counties, those counties cannot be made exempt from its entire operation.

Having reached the conclusion that the Act of 1896 is unconstitutional, it necessarily follows that the Acts amendatory thereof are without force and effect.

Respondent's attorneys made and argued the point on Court that the Acts of 1898, (Nos 456 and 457, 22 statute, pages 739 to 749.) could not be construed to apply to Spartanburg County, or the dieting fees of prisoners in jail in said county fixed by prior acts; because (1) the acts of 1898 purport to amend Section 2,561, of the Revised Statutes of 1893, and the Acts of 1896 and 1897 only is so far as the same relate to the dieting of prisoners in the counties of Charleston and Aiken and Beaufort, and do not purport to be general Acts. Therefore such construction would make them conflict with article 3, Section 17 of the constitution,

which is: "Every Act or resolution having the force of law shall relate to but one subject, and that shall be expressed in the title. Because (2) the Acts of 1898 do not revive and restore the provisions of Section 2,561 of the Revised Statutes of 1893, as to the dieting fees of prisoners, which provisions had been repealed by the Acts of 1896 and 1897, at least in so far as they were in conflict with the provisions of said Acts. Because (3) the Acts of 1898 are in conflict with the provisions of Article 3, Section 31, Subdivisions 10 and 11 of the Constitution.

The Act of 1896 has been shown to be unconstitutional, and even if the Act of 1898, amending Section 2,561 of the Revised Statutes, was also declared to be unconstitutional it would not benefit the respondent, as the fees in that event would have to be determined by Section 2,561 of the Revised Statutes, which allows thirty cents per diem. The respondent's attorneys requested permission to review the case of Williams vs. Kershaw County, 34 S. E. R., 694. The views which have just been expressed renders this unnecessary, as in that case the question whether the Act of 1896 was unconstitutional was not involved, and even if that case was overruled it would not benefit the respondent. We may say, however, that we see no reason for receding from the principles therein announced.

It is the judgment of this Court that the judgment of the Circuit Court be reversed and the case remanded to the Court for such further proceedings as may be necessary to carry into effect the views herein announced.

Special privilege to Collego Students for holidays by the Seaboard Air Line Railway. They can buy their tickets at greatly reduced rates from December 15th to December 21st, inclusive, which will be good until January 8th, inclusive.

CASTORIA
For Infants and Children.
The Kind You Have Always Bought
Bears the Signature of *Chas. H. Fletcher*
Save Christmas money by taking advantage of low rates on Seaboard Air Line Railway for the holidays.

CENSUS OF THE STATISTICAL COUNTIES

Arranged According to Congressional Districts.
We publish for the information of our readers the census of the counties as given out by the census department.

FIRST DISTRICT.

Charleston	88,006
Georgetown	22,846
Beaufort	35,495
Williamsburg (portion)	22,130
Colleton (portion)	11,151
Berkeley (portion)	15,000
Total	195,628

SECOND DISTRICT.

Aiken	30,032
Barnwell	35,504
Bamberg	17,266
Saluda	18,966
Edgefield	25,479
Hampton	23,738
Total	160,015

THIRD DISTRICT.

Abbeville	33,400
Anderson	55,728
Greenwood	28,343
Newberry	30,182
Oconee	23,634
Pickens	10,375
Total	190,662

FOURTH DISTRICT.

Fairfield	20,425
Jacksonville	53,490
Laurens	37,382
Spartanburg	65,560
Yamou	25,501
Richland (portion)	31,392
Total	242,770

FIFTH DISTRICT.

Cherokee	21,359
Chester	28,616
Chesterfield	20,401
Kershaw	24,096
Lancaster	24,311
York	41,694
Total	161,067

SIXTH DISTRICT.

Clarendon	28,338
Darlington	32,184
Florence	28,474
Horry	23,364
Marion	35,181
Marlboro	27,639
Williamsburg (portion)	9,575
Total	184,785

SEVENTH DISTRICT.

Dorchester	16,234
Lexington	27,204
Orangeburg	59,093
Sumter	51,237
Colleton (portion)	22,301
Berkeley (portion)	15,454
Richland (portion)	14,197
Total	206,410