

# The Newberry Herald and News.

ESTABLISHED 1865.

NEWBERRY, S. C., FRIDAY, DECEMBER 13, 1901.

TWICE A WEEK, \$1.50 A YEAR

## On Monday, December 9th, THE 5 AND 10 CENT STORE BEGINS THEIR BIG HOLIDAY SALE!

We appreciate the fact that money is scarce this fall, cotton short and prices low. So we have brought you people Toys for the little folks, Big Toys, Toys you have been paying from 25c. to 50c. for, and put the price down in the reach of all.

DOLLS

DOLLS

DOLLS

We have 'em, and none over 10c. Every imaginable Toy that could be imported and sold for 10c. Also, one solid car of crockery. Big lot of those 50c. covered dishes for 10c. China, Glass and thousands of novelties to delight the old as well as the young folks. We will only be with you for a very short time now, and avail yourselves of this last chance to buy stuff cheap. Our seven big stores are crowded and packed with goods and must be sold before Xmas.

## FIVE AND TEN CENT STORE,

SUMMER BLOCK, Next West's Furniture Store.

### COMPLETE CHANGE IS BROUGHT ABOUT.

STATE BOARD HAS NO RIGHT TO RETURN SEIZED GOODS.

Important Opinion of Attorney General Relating State of Much Trousome Work—The Text.

[The state, 7th]

A very material change in the execution of the State dispensary law came about yesterday by the Attorney General in answer to a request from the chairman of the State board of directors. All along it has been supposed that the power to return liquor property seized by the constables was vested in the State board. This board has been exercising this privilege. In fact much of the work of the board has been taken up each meeting with the consideration of applications for the return of seized goods. The Attorney General, to state the result briefly, holds that the State board has nothing whatever to do with the matter, but that the power of release of goods seized by the constables rests solely with the Governor of the State who appoints and directs the work of the constables.

But here is the opinion addressed to Chairman Williams, which brings about the change and states the reasons for the position taken by Mr. Bellinger:

Dear Sir: You ask my opinion as to the jurisdiction of your board in cases of claims made for the return of "goods, wares, merchandise and other property" seized under the provisions of the dispensary law, the contention of the claimants being that such seizure was unwarranted and improper. You further ask whether, in my opinion, you have jurisdiction to consider claims made for the release of horses, mules, wagons, buggies, etc., used in the transportation of contraband liquor and seized by the State constables.

Replying, I beg to say that I find nowhere in the statutes any power given you, or duty imposed upon you, to act judicially in the case. In

my opinion, it is not one of your duties to direct or control the seizure of any contraband liquor, "goods, wares, merchandise, or other property," nor are the constables made your deputies for the execution and enforcement of the dispensary law. The sections relating to such seizures and the disposition of the property are Nos. 31 and 33 of the act approved March 5, 1897. Section 31 provides the manner in which persons, claiming to be improperly deprived of their goods, may seek and get relief, and the courts of the State are the tribunals therein mentioned to pass upon the question of the legality of the seizure.

Section 33 provides for the seizure, confiscation and sale of the property by the officer entrusted with the process. In cases of seizure of liquors, etc., unless the bond provided for in section 31 is executed in favor of the State board of control within the time limited, the forfeiture becomes complete and there is no remedy provided in the dispensary law whereby the claimant of the liquors can recover them. But should the bond be properly executed and filed, as provided, the forfeiture is stayed or suspended until the question of the liability of the liquor seizure is determined by the magistrate or other court having jurisdiction. Of contraband liquor seized, in my opinion the State board of control is merely the trustee of the State acting as the custodian of the liquors seized and has no power to pass upon the rights of the claimants nor to waive the claim of the State to such contraband liquors.

Permit me to suggest that your board has no general executive powers, the powers of the board being exhaustively set out in the dispensary law. I may add that the Governor is the only general executive officer of the State; in fact, is properly called the chief executive. It is, under the constitution, his duty to have the laws of the State executed through such agencies as the constitution and the statutes have provided. Among the laws to be executed is

the dispensary law. The statutes provide his excellency with such number of dispensary constables as he may see fit to appoint and they have defined their duties. These constables, as it were, act in the premises as the special deputies of the Governor, and when seizures are made it is presumed that they are made by the Governor through his agents. Should the Governor be satisfied, in a given case, that the seizure was unwarranted and improper under the law, it is my opinion that he is empowered to have the seizure vacated and the goods returned to the lawful owner.

In order to make this point plain, I would say that it occurs to me that the position of the Governor with relation to the constables and their seizure is analogous to that which the high sheriff, the chief executive officer of a county, sustains to his special deputies in cases of levy directed by him. Should the special deputy, by mistake or for any other reason, seize property unquestionably not liable to the levy for any cause, the sheriff should, under the view that it is his act, though done through a subordinate, elect to release the levy and return the property. In other words, if the seizure made, be such that the sheriff would not personally have made, he has a right to decline to confirm the action of the deputy.

Murdered and Robbed.

Lexington, Dec. 9.—Almost within the shadow of the church in which he was deacon and his wife a member of the choir, Jesse W. Hawkins, merchant, was found lying with a bullet hole in his head at three o'clock yesterday morning. He was shot about midnight and the body rolled off the pavement and lay unnoticed by passersby. The autopsy showed that he had been struck on the head three times besides being shot in the eye. After shooting Hawkins the murderers took his watch, papers and money. He died yesterday afternoon.

### COST OF OUR GOVERNMENT.

It is Estimated that Appropriations of Over Six Hundred Millions will be Needed for the Year 1902-03.

Washington, December 2.—The Secretary of the Treasury transmitted to Congress today the estimate of appropriations required for the Government service for the fiscal year ending June 30, 1903, as furnished by the heads of the several executive departments. The total appropriations asked for are \$610,827,688, which is \$16,000,000 less than the estimates for 1902 and \$4,000,000 more than the appropriations for that year. Following is a recapitulation of the estimates by departments.

Legislative, \$10,188,099; executive, \$294,160; State department, \$2,446,328; treasury department, \$156,484,925; war department, \$161,920,101; Navy department, \$100,701,122; interior department, \$161,710,835; postoffice department, \$4,404,966; department of agriculture, \$5,509,540; department of labor, \$190,580; department of justice, \$6,917,330. Total, \$610,827,688.

The Southern Pioneer.

While settlement had been crossing the Ohio to the Northwest, the spread of cotton culture and negro slavery into the Southwest had been equally significant, writes Frederick J. Turner in the International Monthly for December. What the New England States and New York were in the occupation of the Middle West, Virginia, the Carolinas, and Georgia were in the occupation of the Gulf States. But, as in the case of the Northwest, a modification of the original stock occurred in the new environment. A greater energy and initiative appeared in the new Southern lands; the pioneer's devotion to exploiting the territory in which he was placed transferred slavery from the patriarchal to the commercial basis. The same expansive tendency seen in the Northwest revealed itself, with a beligerent reasoning, in the Gulf States. They had a programme of action. Abraham Lincoln migrated from Kentucky to Indiana and to Illinois. Jefferson Davis moved from Kentucky to Louisiana, and thence to Mississippi, in the

same period. Starting from the same locality, each represented the divergent flow of streams of settlement into contrasting environments. The result of these antagonistic streams of migration to the West was a struggle between the Lake and Prairie plainmen, on the one side, and the Gulf plainmen, on the other, for the possession of the Mississippi Valley. It was the crucial part of the struggle between the Northern and Southern sections of the nation. What gave slavery and State sovereignty their power as issues was the fact that they involved the question of dominance over common territory in an expanding nation. The place of the Middle West in the origin and settlement of the great slavery struggle is of the highest significance.

### Advertised Letters

Remaining in the postoffice at Newberry, S. C., for week ending Dec. 9th.

- A—Jas. F. Anderson.
  - B—Wm. Burton, R. S. Berry, Pauline Bishop, Wm. J. Brown, Mary Brown, Westey Brown, Martha Brownlee, Emma A. Booser.
  - C—E. T. Cannon, M. I. Carlisle, Nannie Cromer, Monroe Cooper, George Collins.
  - D—George Douglass.
  - E—Fannie Earle, Battie Edwards, C. B. Ewell.
  - G—M. B. Goodman, Alice Graham, Ida Goodwin, Bertha Gregory.
  - H—Mannie Haggart, H. D. Hamitor, Ella Horton.
  - J—Rose Jackson, Alma Jackson, Josie Jones, F. Jones, J. S. Jones, Maggie Jones.
  - K—T. G. Kemmerlies, Mrs. Fannie Kibler.
  - L—G. W. Lincoln, Medora Lindsay.
  - M—Janie Markas, F. Moore, C. S. Mitchell, Mrs. Davo Momphays, N—Mrs. H. Nelson.
  - O—Jeff O'dell.
  - P—J. H. Parker, Lillie Pearson, George Pressley, Miss Eva Jane Price, Mrs. Eliza Pitts.
  - R—Raspberry, George Reeder, W. F. Rutherford.
  - S—Mrs. J. M. Stedman, A. A. Simpson, Maggie Simpson, Winner Sincer.
  - T—J. C. Thomason.
  - W—Andy Wood, Mary B. West, John Wilson, Jacob Wolfe, Anon Wilson, E. A. Wood, W. W. Spence.
  - Y—Rev. H. Young.
- Persons calling for these letters will please say they were advertised.  
L. F. Bynum, Acting P. M.

### CHARLESTON DEC. 9, 1901.

Supreme Court of New York Sustained the Request Under the Gibbs Will for a Library and Art Gallery.

Charleston, Dec. 9.—The decision of the New York Supreme court in the James S. Gibbs will case was filed here today. Under the decision the bequest of \$100,000 to the city of Charleston for the purpose of establishing an art gallery and ladies' library, is held to be valid. The trustees under the will, Mayor J. A. Smyth, Judge C. H. Simonton and a third person to be selected by them, will begin at once to carry out the purposes of the bequest, as no further litigation is expected.

### Value of Corn Stalks.

Corn may be grown for the stalks only, some day, and not for the ears. Wouldn't it be funny to be experimenting for an earless corn? That is what it is likely to come to if the uses of the corn stalks keep on developing. Just now it is neck and neck between the stalks and the ears as to which is the more valuable, so the wise farmer is making good money selling his corn stalks instead of burning them.

The uses for corn stalks are very many. The agricultural department has made public a bulletin showing that they may be used for these among other purposes:

A packing for warships; a high grade of writing paper; the basis of a smokeless powder; and a cattle food made by grinding it to a powder and mixing it with cheap molasses.

The new food is pressed into cakes under a hydraulic press and can be shipped as easily as bricks or cord wood. For feeding it is broken up and mixed with water. Actual tests have been made and samples have been sent to agricultural stations in Europe. Reports from all sources are very encouraging. This food will be particularly valuable for our cavalry in the tropics, and the food cakes can be made at minimum cost in Cuba and the southern states, where thousands of tons of low grade molasses go to waste annually.—Kansas City Journal.

### A POEM ON THE WAR.

Written by a Member of Company E, 104th Regiment, Florida Volunteer Infantry, at Richmond, Va.

At Spottsylvania Court House,  
Where many a hero fell;  
And likewise at the Wilderness,  
As many a man can tell,  
But such a dreadful carnage,  
I cannot forget it soon,  
So happened at Cold Harbor,  
See on the third of June.

The yankees they attacked us,  
Just as the day did break,  
But soon we over-powered them,  
And forced them to retreat;  
We killed one yankee Colonel,  
With many a man likewise,  
When glorious shouts of triumph,  
Resounded through the skies.

Young Major Byrd, who fell that day,  
Of all men, he was the best,  
One pleasing consolation,  
His soul has gone to rest,  
No cannon's roar can mar his peace,  
He dwells beyond the sun,  
His friends may sigh and drop a tear,  
Alas there is no return.

The battle it was raging high,  
When our gallant Major fell;  
He cries "my boys, I am wounded,  
I pray take me from the field."  
The blood flowed freely from his wound  
When he was heard to say,  
Go charge my valiant comrades,  
We will surely gain the day."

He leaned his head against a tree,  
And then resigned his breath,  
And like a valiant soldier,  
Sunk in the arms of death,  
While blessed angels did await,  
His spirit to convey,  
And unto the celestial fields,  
He quickly bent his way.

James Somers he was wounded,  
The very second fire,  
His many bosom swelled with rage,  
When forced to retire,  
Like one distracted, he appeared,  
And thus exclaimed he:  
"Those hounds of hell shall all be slain  
But I revenged will be."

They left their wounded on the field,  
Oh, Heaven what a shock,  
Some of their bodies mangled,  
And some their limbs were broke;  
All day in this condition,  
The wounded lay exposed,  
Till night with sable darkness,  
The bloody day did close.

T. J. O.